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THE JOHN P. BRANCH HISTORICAL PAPERS

OF

RANDOLPH-MACON COLLEGE.

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1901-1904

PUBLISHED ANNUALLY

BY THE

RANDOLPH-MACON HISTORICAL SOCIETY,
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Randolph-Macon Historical Society.

Organized October 1, 1900.

Study of United States history and the collection of historical documents—especially bearing on Virginia—are the objects of the organization.

Co-operation of all friends of the College, and of a closer study of Virginia history, is respectfully solicited.

Address,

HISTORICAL SOCIETY

of Randolph-Macon College.

ASHLAND, VA.

THE JOHN P. BRANCH
HISTORICAL PAPERS,
OF
RANDOLPH-MACON COLLEGE.

JUNE, 1901.

PREFACE.

The purpose of the Branch Historical Papers is, first, to stimulate the study of history in Randolph-Macon College, and, second, to put in good form, accessible to students, whatever papers and documents may come into the possession of the Randolph-Macon Historical Society. The first, it is hoped, will be attained by publishing each year the Bennett Prize paper, thus rewarding publicly whatever earnest work may be done, and by this very publicity stimulating the spirit of accurate study and investigation.

John P. Branch, Esq., of Richmond, has made this possible by his liberality in meeting the expense of the first publication. It is hoped that a larger usefulness may become possible by a larger and more zealous interest on the part of both students and friends of the institution.

The first issue is necessarily crude, incomplete, the more so because of the hasty work made necessary by the short time left after the publication was assured. The initial paper is, it is thought, not inappropriate in a publication sent out from the college of the Methodists of Virginia and Maryland.

THE JOHN F. BRANCH

HISTORICAL PAPERS.

OF

RANDOLPH-MASON COLLEGE

1891

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The Revolutionary correspondence of Leven Powell and David Griffith, two staunch Whigs, of Loudoun county, has been published, but in a pamphlet privately circulated—100 copies only; and it will have very considerable value because of the light shed on the movements of that momentous epoch. These letters give a good picture of the bold, sturdy patriots as they first flew to arms—along with Patrick Henry—in the defence of Virginia and America. There were few braver, more faithful or intelligent soldiers enlisted during the whole Revolutionary War than Leven Powell and his neighbor, the militant parson of Shelbourne Parish, Loudoun county, who gave up his church to enter the army at the very beginning. Griffith's service was all the more valuable because of his training as a physician, and he was at once made surgeon, serving first in the neighborhood of Williamsburg, then in the Continental Army under Washington. But the letters themselves are the best commentaries on the worth and valor of the men.

There were three other true, testy soldiers that went to make up that little group of which Powell seems to have been the leading spirit: Col. George Johnston, of Halifax, aide to General Washington, who died at Morristown, 1777; Major James Hendricks, who likewise died in the harness at Valley Forge, and Major Andrew Leitch. Some letters of these have been preserved, and they all breathe the same spirit of zeal and patriotism that these published so clearly manifest. It is our desire to publish at a later day a fuller account of these men and the rôle they played in the service of their country.

Leven Powell's letters bearing on the campaign of 1800 and the contest in the House of Representatives following, explain themselves and show the attitude of their author. These letters were printed for the first time in the October number of the *Randolph-Macon Monthly*, which is now out of print, and so a reprint is deemed not altogether useless, in view of the calls occasionally being received.

EDITOR.

DEVEREUX JARRATT AND THE BEGINNINGS OF METHODISM IN VIRGINIA.

BY J. W. SMITH.

REVOLUTIONS, either in religious or political affairs—and the former is apt to precede the latter—come slowly and ordinarily “from below.” This was as true of the momentous Virginia Revolution of 1776 as of that of France fourteen years later. And here in Virginia the process was the same—a constant pushing upward of those classes which Virginians called then and would call now “mean.” Here in Virginia the upheaval began in the church. Fifty years before the Methodist Societies became the Methodist Church, the movement was well begun. It continued to increase in importance, gaining by the zeal of its leaders as well as by the reasonableness of its program, and the way was cleared for a new Virginia.

It is the purpose of this paper to trace briefly the life and influence of one of the silent, obscure workers of this Revolution; of a man whose name is seldom mentioned, yet one who deserves much from Virginians of to-day—the Reverend Devereux Jarratt, of the parish of Bath, Dinwiddie county, Virginia.

Devereux Jarratt was born in New Kent county, Virginia, on January 6, 1732. Little is known concerning his parentage except what he himself tells us.¹ He was of English descent, his grandfather having been born in London, in Devereux county. His grandmother was a native of Ireland. Both of his grandparents on his father's side died before he was born. They were plain, poor people, “but industrious and rather rough in their manners.” The father of Devereux, Robert Jarratt, was a simple, inoffensive man, and followed the trade of a carpenter. His

¹Life of Jarratt, page 12. When we refer the reader to the Life of Jarratt, we mean the one written by himself, in a series of letters addressed to the Rev. John Coleman, of Maryland. Baltimore, 1806.

mother "was the daughter of Joseph Bradley, of Charles City, a county bordering on New Kent."² None of his ancestors were wealthy or famous, but, as we might call them, people of moderate circumstances. A few lines from one of his letters shows well the circumstances in his home, and also the condition of the average "simple" folk of that day. "They always had plenty of plain food and raiment, wholesome and good, suitable to their humble station and the times in which they lived. Our food was altogether the produce of the farm, or plantation, except a little sugar, which was rarely used; and our raiment was altogether my mother's manufacture, except our hats and shoes, the latter of which we never put on but in the winter season. We made no use of tea or coffee for breakfast, or at any other time; nor did I know a single family that made any use of them. Meat, bread and milk was the ordinary food of all my acquaintance. I suppose the richer sort might make use of those and other luxuries, but to such people I had no access. We were accustomed to look upon what were called 'gentle folks' as beings of a superior order."³

No doubt part of Jarratt's earnestness and religious zeal of after years can be attributed to the simple teachings of his parents when he was very young. Like all *true* parents, they did not strive after honor and worldly fame for their children, but endeavored to instill the principles of honesty and virtue, that they might be a blessing to them and an honor to their country. Devereux's father died when he was six years old. At the age of eight years he was sent to an English school near by. The course of study in those days was not so extensive as ours, and scarcely anything more was taught than "the three R's."⁴

In most parishes there were small schools, and "Beverly, who wrote in 1705, says that it was the habit of the people of Virginia to join together and form little schools for the education of

²Life of Jarratt, page 13.

³Life of Jarratt, page 13.

⁴See Fiske—Old Virginia and Her Neighbors, Vol. II, page 242.

the children.”⁵ Private free schools were founded by individuals, and very often clever servants or young ministers were employed as tutors. Frequently advertisements like the following appear in the *Virginia Gazette*:

Middlesex, Oct. 26, 1769. “A single man that understands teaching Reading, Writing and Arithmetic, and comes well recommended, will meet with encouragement by applying to the subscriber.”

We also find evidence that some effort was made to educate the colored children. There may be found in the vestry book of Petsworth Parish, in Gloucester county, a statement of October 30, 1716, wherein Ralph Bevis promises to “give George Petsworth, a molattoe boy of the age of 12 years, 3 years’ schooling, and carefully to instruct him afterwards, that he may read well in any part of the Bible.”⁶ So much for the educational advantages of that time.

Devereux’s mother dying when he was about twelve, he was taken from school, and no more care was bestowed on his education. He now fell under the guardianship of his elder brother, but he was of such a lenient and kind disposition that young Jarratt was under no moral restraint whatever. He says: “I followed the way of my own heart, and walked in the sight of mine own eyes, not considering, as every one ought, *that for all these things God would bring me into judgment.*”⁷ His time was now divided between working on a plantation and training race horses and gamecocks. At the age of seventeen he left his elder brother and became an apprentice at carpentering under his younger brother, Joseph.

He continued under the care of his brothers until he was about twenty, but during that time no thought was paid to religion. Cards, racing and dancing were the favorite pastimes of the ungodly, and even those who professed to be Christians were not

⁵*William and Mary College Quarterly*, VI, 1.

⁶*William and Mary College Quarterly*, V, 219.

⁷Life of Jarratt, page 20.

entirely guiltless. Even the ministers gave themselves up to questionable sports, and were often found at the race course and the ball room. The duties of the Sabbath were performed in a regular, routine manner, while on other days they pleased the body with worldly amusement. Mr. Blair, in a letter to the Bishop of London, dated Williamsburg, March 24, 1734, speaking concerning an anonymous letter, in which were objections urged against the present condition of the clergy, says, "and tho' there may be some truth in what he objects to the clergy in the point of drinking, it is neither so general nor to such a degree as he represents it."⁸ Indeed, we are told that they betted at cards, rattled dice, and even baptized children where the wine flowed freely, and the dance enabled them to display their clerical grace.⁹ So prevalent had been the wickedness that the General Assembly, at an early date, found it necessary to state that "ministers shall not give themselves to excess in drinking or riot, spending their time idly by day or night."¹⁰ Little progress had been made in morality in general even up to the time of the Revolution, for in the newspaper of the day we find this statement, "The heads of the church grow fat, while the poor curates wax lean. Some Bishops are termed men of pleasure, and their Ladies Women of Fashion. The superior clergy get rich, and their inferiors are Beggars. Cards, Fishing, and drinking Punch engage too many of the Opulent, and sorrow and affliction the Distressed."¹¹ A quotation from Jarratt's letters will illustrate well the performances of the duties of the Sabbath by the clergy. "I know not that I ever heard any serious conversation respecting God and Christ, Heaven and Hell. There was a church in the parish, within three miles of me, and a great many people attended it every Sunday. But I went not once in a year. And if I had gone ever so often, I should not have been much the wiser, for the parish minister was but a poor preacher—very inapt to teach or even to gain the

⁸Church in Virginia 1650-1676, page 357.

⁹See Howison's History of Virginia, Vol. 2, Chap. III.

¹⁰Henning in Baird, page 98.

¹¹Virginia Gazette, March 3, 1774.

attention of an audience. Being very near-sighted, and preaching wholly by a written copy, he kept his eyes continually fixed on the paper, and so near that what he said seemed rather addressed to the cushion than to the congregation. Except at a time when he might have a quarrel with anybody, then he would straighten up and speak lustily, that all might distinctly hear.

I remember to have heard he had once a quarrel with his clerk, and strove hard in vestry to turn the poor man out of his place, but failed in the attempt. The next Sunday he had prepared a scolding for him, and did vilify him stoutly, right over his head. The clerk sat it out to the last, and as soon as the angry sermon ended, he rose up, according to custom, to sing a Psalm. He wished to return the *parson* like for like, but was not allowed, there, to say anything, but was contained within the lids of the Prayer-Book. However, to suit the discourse, and pay the minister in kind, he gave out the 2d Psalm, and with an audible voice read the first stanza thus—

With restless and ungovern'd rage,
Why do the heathen storm?
Why in such rash attempts engage,
As they can ne'er perform?²

Such, briefly, was the spiritual condition of the times, although we do not mean to say that there were not a number of faithful ministers and hundreds of godly men and women.

While Devereux had been under the guardianship of his brothers, he had not entirely given up studying. Often, while the horse with which he plowed was grazing, many a telling moment was spent on arithmetic. He tells us that he was so well skilled in the Division of Crops, the Rule of Three and Practice, that his fame went abroad.³ A man by the name of Jacob Moon, dwelling in Albemarle county, having heard concerning him, engaged his services as a schoolmaster. Packing up the little he possessed, and borrowing a horse from his brother, he set out for his

²Life of Jarratt, page 21.

³Life of Jarratt, page 25.

new station. The school fell below his expectations, so he remained here only one year. The following session he was fortunate enough to procure another school, but this was even worse than the first. Here he must board among those who employed him, proportioning his time as best he could. The first part of the term was spent with an ungodly family, given up to merriment and folly. Here Devereux wished to remain the whole year, but his time being up, he went to board with another family by the name of Cannon. This household was entirely different from the late one. The lady of the house was a "new-light," and all levity and every form of ungodliness was banished from the home. Jarratt was now in somewhat of a dilemma. What must he do? Finally he decided to play the hypocrite. It seems that one of the customs of the lady was to read a sermon each night in Flavel, and naturally Jarratt was asked to join her. He accepted the invitation, thinking this would be one of the ways by which he could act his part. But just as the trickling stream, though slowly, but surely, wears away the stern rock, so these sermons came to have an effect upon his hardened heart. "But it pleased God, on a certain night, while she was reading, as usual, to draw out my attention, and fix it on the subject in a manner unknown to me before. The text of the sermon was, *Then opened he their understanding*. The subject was naturally as dark to me as any of the former, and yet I felt myself imprest with it, and saw my personal interest in the solemn truths—and truths I believe them to be."⁴

He now became conscious that he was a sinner, and this feeling followed him from morn till night. He now resolved, if possible, to save his soul from destruction, but the way was dark, and he tried to accomplish it by trusting in his own strength. His experience was one of continual warfare—"sinning and repenting, repenting and sinning." The next year he changed his abode and went back to Moon's. He still kept up his search after light, and did what he could to influence the family for good, but with little success. One of his many embarrassments was the

⁴Life of Jarratt, page 34.

absence of books. He borrowed "Russell's Seven Sermons," and was fortunate in procuring the loan of Burkett's exposition on the New Testament. Sitting on the hearth, by the light of the blazing logs, he endeavored to know as much as his mind would allow concerning the great truths of Christianity. He became more intense in his struggle, and gave up all questionable amusements. It was about this time that Devereux met with a severe defeat. He determined to pay a visit to his brothers, and renew the acquaintanceship of his friends. One night his brothers gathered a number of people for the purpose of dancing and drinking cider. Jarratt held aloof for some time, but at last the temptation was too strong, and he entered into all the gayeties.⁵ His soul now met with a set-back, and for two or three months he tells us that he had little relish for anything of a religious nature.

The following year he went back to teach the son of Mr. Cannon. By the aid and example of Mrs. Cannon, he was brought back to his former resolves. He now became intimately acquainted with a Presbyterian minister, and had the help both of his sermons and his private conversation. It was about this time that he was truly converted, and we cannot pass without giving his account of it. "While in this state of suspense, I was assaulted with very uncommon trials, and a perplexing thought followed me, that my case was singular, and that no man in the world had such trials, oppositions and enemies to contend with as I had. The Lord relieved me at last. I well remember the time and place, when and where I was sitting, with a good book in my hand. In this I read a great many discouraging cases, described by the author, with the promises adapted to such cases. I paid great attention to every case and promise—and perhaps not without hope that God would be my friend. But not finding my case, I was still thinking it nameless, and altogether singular, and consequently there could be no promise in the Bible suitable to it. At last I cast my eye on Isaiah 62, 12—*Thou shalt be called, sought*

⁵Life of Jarratt, page 43.

out, a city not forsaken. These words appeared very applicable to a *nameless* case, and I was enabled to apply them as such, to the great comfort of my soul. I saw, and believed, that though my case was *nameless*, and hid from all the men upon earth, yet God knew it, and would search me out for good, and not forsake me, or give me over into the hand of the enemy. I was blessed with faith to believe, not one promise only, but all the promises of the gospel, with joy unspeakable and full of glory. I saw such a fullness in Christ, to save to the uttermost, that had I ten thousand souls as wretched and guilty as mine was, I could venture all on His blood and righteousness without one doubt or fear. The comforts I then felt were beyond expression, and far superior to anything I had ever known before that memorable hour.

Eternal glories to the King,
Who brought me safely through;
My tongue shall never cease to sing,
And endless praise renew.

Not that I suppose I never had true religion before this—I believe I had real religion, or I could not have gone through so many trials—but such a bright manifestation of the Redeemer's all-sufficiency and willingness to save, and such a divine confidence to rely on Him, I never had till that moment. It was a little heaven upon earth—so sweet, so nourishing, so delightful. I uttered not a word, but silently rejoiced in God my Saviour.”^a

Before this, Devereux had to a small extent taken part in religious gatherings in the neighborhood. He had led in prayer, conducted the singing, and read several practical discourses to the people. He did not attempt to preach, but would interweave his thoughts into the sermons that he read, so that they would not appear different. His friends urged him to enter the ministry, but he paid little attention to the matter. He still continued to teach and study. Leaving Mr. Cannon's, he went into Cumberland and started a school at a Mr. Thomas Tabb's. Here he was

^aLife of Jarratt, page 47.

fortunate enough in making the acquaintance of a young man by the name of Alexander Martin, and from him he took lessons in Latin and Greek.

In the spring of 1762, Jarratt stopped teaching, and began to prepare for admission into Holy Orders. At first he had decided to enter the Presbyterian ministry, but, later on, chiefly from a financial standpoint, he made up his mind to be an Episcopalian. In October of the same year, he left for England, to take the rites of ordination. At Christmas he was made deacon, and one week later priest. By the 10th of January, 1763, he was ready to return home, but on account of the condition of the weather, and sickness, he was delayed. He had the opportunity, while in the metropolis, to hear some of the greatest preachers of the day, and even to preach several times himself. He says that he preached so differently from the customary manner that he was suspected of being a Methodist, but that he did not know anything concerning their doctrines and principles. He heard Mr. Wesley and Mr. Whitfield both preach, but seems not to have been so favorably impressed. On the first Sunday in July, 1763, he reached Virginia, after being away for nine months.⁷

His first work now was to find a vacant parish. He knew of only one, but this was not suitable to his taste. He went to Cumberland and remained there for a few weeks, preaching in the parish of one of his old friends. In August, hearing that the parish of Bath was unoccupied, he went to enquire about it. The vestry met and unanimously agreed to retain him. Devereux was now thirty-one years of age, and he remained here, serving the people, until his death. Several ministers had preceded him, but, from his own account, the religious condition of the people was sadly lacking. They seemed to know scarcely anything concerning the essential truths of the gospel. They had been accustomed to hear well-sounding discourses concerning morality, but the real, vital matters were left untouched. Jarratt's preaching was entirely different, and more like the Methodists than the clergy of the Estab-

⁷See his *Life*, pages 55-78.

lished Church. His subjects were conversion, the new birth, and the inefficiency of good works. The questionable sports and amusements of the day were cried out against, and he strove to show that the gospel extended to the minutest detail. In a word, he revolutionized the whole scope of preaching in his section. Indeed, not alone did the communicants behold him with amazement, but the clergy viewed him with suspicion—"Yea, I was opposed and reproached by the clergy, called an enthusiast, fanatic, visionary, dissenter, Presbyterian, madman, and what not."⁸ Yet, like the apostle, none of these things moved him. He lived to carry out his well-grounded and established convictions. It was woe to him if he did not preach the gospel. He had passed through many a struggle, his soul had yearned for light, and since he had found it he could not help but publish it abroad and thereby deliver his own soul. "Instead of moral harangues, and advising my hearers in a cool dispassionate manner, to walk in the *primrose paths of a decided, sublime and elevated virtue*, and not to tread in the foul tracks of *disgraceful vice*, I endeavored to expose, in the most alarming colors, the guilt of sin, the entire depravity of human nature,—the awful danger mankind are in, by nature and practice—the tremendous curse to which they are obnoxious, and their utter inability to evade the sentence of the law and the strokes of divine justice, by their own power, merit, or good works."⁹

Can we not see in this manner of preaching a preparation for the advent of Methodism? His method was very similar to theirs and the great doctrines which they strove to revise were the same. He even went so far as to preach in private houses, and hold meetings at different homes in the evenings. The clergy wrote him threatening letters, and one of them in particular, because he preached in private houses, but Jarratt silenced him by replying that he did not know of any minister that failed to enter a private house and preach a funeral sermon for the sake of forty shillings.

⁸Life of Jarratt, page 86.

⁹Life of Jarratt, page 89.

Previous to speaking concerning the introduction of Methodism, let us take a somewhat hurried glance at the stronghold which the Episcopal church had, together with the appearance of other denominations among them. Up to about the year 1740, the Established Church held sway. Here and there might have been found a few dissenters, but in the main the Church of England predominated. The evil attendant upon her could not fail to be seen by the most thoughtful and studious. Men were compelled by law to attend on the ceremonies of one sect, and those who dissented were denied the privilege of citizenship. Again, every one was required to contribute to the support of the clergy, whether he was of that belief or not. Finally a great number of ministers had risen up, who were careless and slack about their duties, giving themselves up to pleasure.¹⁰ Can we wonder that there began to be a reaction; that different sects should arise, promulgating doctrines at variance with the Church establishment? The two denominations that appeared in Virginia, previous to the year 1772, to help undermine the strength of the Church, were the Baptists and the Presbyterians.

As early as the year 1714, a small party of Baptists from the mother country had settled in the southeastern part of the colony. These were termed the *regular* Baptists. In 1739, George Whitfield appeared in America, that great "prodigy of religious energy and eloquence." A large number of Baptists in the north, influenced by his preaching, left their party, and were known as *Separates*. A number of them, between 1744 and 1755, traveled south to the borders of North Carolina. Shortly after this they extended their labors into Virginia, and "in August, 1760, the first Baptist church of this order was planted on the soil of the Old Dominion." Under the united efforts of such men as Samuel Hariss and James Read, the number of followers greatly increased, and it was evident that they were soon to be an important factor in the history of the Established Church.¹

¹⁰See Howison's History of Virginia, Vol. 2, 155.

¹See Semple's History of the Baptists in Virginia, Chap. I; Howison's History of Virginia, Vol. 2, Chap. III.

The first Presbyterian congregation of which we know was gathered near what is now the present site of Martinsburg, in 1719. A preacher was sent them from the Synod of Philadelphia. Soon other churches were established, and Presbyterianism began to take root in the Valley. Between 1740 and 1743, Samuel Morris, of Hanover, gathered a few families together, and read to them from religious works. This was the beginning of the Presbyterian church in lower Virginia. Their first minister was William Robinson, who, suffering from embarrassments in the mother country, came to America. Under his ministry the church grew, and several congregations were formed. Probably the one who did more to establish this denomination in Virginia than any other man was Samuel Davies. Born in Newcastle, Delaware Nov. 3, 1724, he was licensed to preach by the Presbytery of the same place in 1745. Two years later he came to Virginia, complied with the Toleration Act and subscribed to the thirty-nine articles of the Church of England, with a few exceptions. In 1748, licenses were obtained for three churches in Hanover and one in Henrico. Davies now threw himself whole-soul into the work. His preaching is described as being with unusual power. One writer speaks as follows, "the objects of faith drew near to the listener, heaven opened, and celestial melody was wafted from its portals; the world of despair was unlocked and shown to the impenitent."² It is said that Patrick Henry stated that he learned from him what an orator should be. Progress continued, and in 1755 the Hanover Presbytery was formed, which comprised the churches of Virginia and some in North Carolina. Under its auspices two schools were established, where the youth might be instructed in religion as well as in science.³

With the increase of each denomination persecution began. Ministers were carried before magistrates and commanded not

²Howison's History of Virginia, Vol. 2, page 180.

³See Howison's History of Virginia, Vol. 2, Chap. III; Campbell's History of Virginia, Chap. XXIX.

The first of these was the discovery of gold in California in 1848. This discovery led to a great influx of people to California, and the state became a great center of population. The second was the discovery of gold in Colorado in 1859. This discovery led to a great influx of people to Colorado, and the state became a great center of population. The third was the discovery of gold in Nevada in 1859. This discovery led to a great influx of people to Nevada, and the state became a great center of population. The fourth was the discovery of gold in Idaho in 1860. This discovery led to a great influx of people to Idaho, and the state became a great center of population. The fifth was the discovery of gold in Montana in 1862. This discovery led to a great influx of people to Montana, and the state became a great center of population. The sixth was the discovery of gold in Wyoming in 1869. This discovery led to a great influx of people to Wyoming, and the state became a great center of population. The seventh was the discovery of gold in Utah in 1871. This discovery led to a great influx of people to Utah, and the state became a great center of population. The eighth was the discovery of gold in Arizona in 1876. This discovery led to a great influx of people to Arizona, and the state became a great center of population. The ninth was the discovery of gold in New Mexico in 1878. This discovery led to a great influx of people to New Mexico, and the state became a great center of population. The tenth was the discovery of gold in Texas in 1880. This discovery led to a great influx of people to Texas, and the state became a great center of population.

THE HISTORY OF THE UNITED STATES

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to preach. Some were cast into prison as though they were criminals, and others were insulted while performing the duties of the church, even attempts being made to turn their ceremonies into a farce. We cannot fail to mention that old and familiar household story about Patrick Henry and his connection with one of the persecutions. Three Baptists were brought to Fredericksburg to answer to the charge of "preaching the gospel contrary to law." Patrick Henry, having heard some little concerning the arrest, came to hear more. He remained quiet while the indictment was being read, and until the prosecutor had opened the case, then, with all solemnity due the occasion, he said to the court, "May it please your worships, what did I hear read? Did I hear it distinctly, or was it a mistake of my own? Did I hear an expression that these men, whom your worships are about to try for misdemeanor, are charged with *preaching the gospel of the Son of God?*" The orator continued his appeal, and we are told that the court was near the point of bidding the sheriff dismiss the prisoner. Madison, in a letter to Mr. William Bradford, Jr., dated Jan. 24, 1774, writes, "That diabolical, hell-conceived principle of persecution rages among some; and to their eternal infamy, the clergy can furnish their quota of imps for such business. This vexes me the worse of anything whatever. There are at this time, in the adjacent county not less than five or six well-meaning men in close jail for publishing their religious sentiments, which in the main are very orthodox. I have neither patience to hear, talk or think of anything relating to this matter, for I have squabbled and scolded, abused and ridiculed so long about it, to little purpose, that I am without common patience. So I must beg you to pity me, and pray for liberty of conscience to all."⁴

But these things did not hinder their growth or development. It seems that the human race has been a long time learning that one of the best ways to cause a religious sect to grow is by persecution. Thus, in a few words, were the religious forces in Virginia arrayed when Methodism made its appearance. The Established

⁴Madison's Works, Vol. 1, page 12.

Church on one side, contending for strict conformity, the Baptists and Presbyterians on the other, striving for religious freedom and a right to worship as they chose.⁵

In our consideration of the advent of Methodism, we must remember that she entered as a part of the church establishment and not as a dissenting branch.

Methodism owes its introduction in Virginia to Robert Williams, her pioneer in the old colony. He was born in England, but crossed over into Ireland, where he labored as a local preacher under the direction of the Methodist Societies. Some time later, Mr. Wesley gave him permission to preach in America, under the guidance of his missionaries. He was in extremely poor circumstances, and his passage was paid for by some of his friends. He arrived in America in 1769, and was stationed for some time in New York. In the year 1772 he made his first visit to Virginia, stopping in Norfolk. Taking his stand on the steps of the courthouse, he began to sing, and continued until a number of people had gathered around him. Then, after prayer, he selected his text, and addressed the hearers. He preached in a manner so strange to what the people had been accustomed to hear, that some of them thought he was really swearing and profaning the name of God. Jarratt met him the next year, and received him into his home. Here he remained for about a week, preaching several sermons in the parish. Devereux was favorably impressed with his discourses and liked his animated manner. He mentions him as a "plain, artless, indefatigable preacher of the gospel," being "greatly blessed in detecting the hypocrites, razing false foundations, and stirring believers up to press after a present salvation from the remains of sin."⁶

Possessing somewhat the same earnestness, Devereux entered heartily into the work, but at the same time believing that the Methodists did not intend to leave the church. Williams informed him that they were true and sincere members of the Church of

⁵See Semple, Chap. III.

⁶*Asbury's Journal*, page 159.

England, and their object was to build her up and reform the existing evils of the times. Books were loaned him, and by means of these he came to know their general plan, and that "He that left the church, left the Methodists." Devereux's home now became a stopping place for the ministers, and in *Asbury's Journal* we find this statement, "Held quarterly meeting at Boisseau's Chapel. From thence I hasted to Mr. Jarratt's barn, where the people were waiting."⁷

Previous to Williams' entrance into Virginia, a wonderful revival had broken forth under the strong and powerful preaching of Jarratt. People gathered in private houses evening after evening, where instruction in divine things was given. In the year 1770 and 1771, the outpouring of the Spirit was considerable at a place called White Oak. Here Devereux formed the people in a society for mutual advantage. The revival increased during the year 1772, and after this the Methodists were present to help. "The Word preached was attended with such energy, that many were pierced to the heart. Tears fell plentifully from the eyes of the hearers, and some were constrained to cry out. A goodly number were gathered in this year, both in my parish and in many of the neighboring counties.⁸ When the Methodists came, they entered fully into the work, and the revival greatly increased. Jarratt worked in perfect harmony with them. Everything possible was done to upbuild the church of Christ. Many hardened hearts were softened and made new. Old grey-haired men were made to cry out for mercy, under the wonderful power of the Spirit. Love feasts were held, in which many, who had once been under the power of sin, could now tell of their wonderful deliverance. The fetters of sin had been broken, the chains of bondage had been loosed, and the free sunshine of God's love filled their hearts. Jarratt gives us a description of one of these gatherings. "As soon as it began, the power of the Lord came down on the assembly like a rushing mighty wind, and it seemed as if the whole

⁷*Asbury's Journal*, Vol. I, page 345.

⁸*Asbury's Journal*, Vol. I, page 159.

house was filled with the presence of God. A flame kindled and ran from heart to heart. Many were deeply convinced of sin; many mourners were filled with consolation; and many believers were so overwhelmed with love that they could not doubt but God had enabled them to love Him with all their heart."⁹

Jarratt was viewed with suspicion by his brother clergy, and to such an extent that, in one of their conventions held in the year 1774, at Williamsburg, he was insulted.¹⁰

During this year the first regular circuit was formed. Societies were organized in Jarratt's parish "and in other places, as far as North Carolina." "They began to ride the circuit and to take care of the Societies formed, which was rendered a happy means both of deepening and spreading the work of God."¹¹

It was during this wonderful revival that Mr. Asbury became associated with Mr. Jarratt. Mr. and Mrs. Jarratt received him with outstretched hands, and he often made their home his stopping place. In his journal of Feb. 12, 1776, Mr. Asbury says concerning him, "I find him a man of an agreeable spirit, and had some satisfaction in conversing with him. He has agreed, if convenient, to attend our next Conference."

In October of the same year, the church establishment received a fatal blow. In the Legislature, holding its session at Williamsburg, petitions were sent in, urging action on the laws affecting conscience, and for a repeal of the oppressive laws of the church. There was a desperate struggle, but the advocates of freedom were victorious, and there was a further separation of Church and State. In all this contest the Methodists were true to the Church of England, and did what they could to help maintain the present existing condition. Mr. Jarratt continued to use all his forces with the new part of the church. He believed they would always be true, and naturally so, because did not even the leaders think the same? But, little by little, the timbers were being pulled apart, until finally the crash must come. In some

⁹*Asbury's Journal*, Vol. I, page 161.

¹⁰Life of Jarratt, page 131.

¹¹Methodism in Virginia, Bennett, page 65.

respects Devereux belonged strictly to no denomination. He was at variance with his own church in some degree at least, and the new sect, still professing to be a part of the regular church had not organized themselves into a separate body. Societies were constantly being formed, in which the doctrines peculiar to Methodism were being taught, and Jarratt, by his help, was unconsciously working against the church to which he belonged formerly.

At the Conference, in 1782, Mr. Jarratt was present and preached the opening sermon. At noon on the next day, he spoke on the "Union of the Attributes."² It was at this session of Conference that the following resolution was passed, that, "The Conference acknowledge their obligations to the Rev. Mr. Jarratt for his kind and friendly services to the preachers and people, from our first entrance into Virginia; and more particularly for attending our Conference in Sussex, both in public and private; and we advise the preachers in the south to consult him, and to take his advice in the absence of Brother Asbury."³ Jarratt continued faithful to them until the very time of their separation, because he was present at their Conference in 1784, and says that "Mr. Asbury was still striving to render an attachment to the church yet more firm and permanent," and also that he (Mr. Asbury) had brought with him Mr. Wesley's twelve reasons against a separation from the church.⁴

In the latter part of the same year, the crash came, the branch was separated from the vine. It seems strange that Mr. Jarratt could not see that it was almost an impossibility for them to remain joined. For some reason or other, as soon as they did separate, Jarratt hurled invectives against them. In a letter to a friend, he wrote, "And who would suppose that before the close of this same year" (1784) "he" (referring to Mr. Asbury) "and the whole *body* of *Methodists* broke off from the church at a single

²*Asbury's Journal*, Vol. I, page 344.

³History of the Methodists, page 81.

⁴Life of Jarratt, page 114.

stroke! What mighty magic was able to effect so great a change in one day! It was certainly the greatest change (apparently at least) that ever was known to take place, in so short a time, since the foundation of the Christian church was laid. They embraced a new faith, and it showed itself by their works, for from that memorable period *old things were done away*—their *old mother*, to whom they had avowed so much duty and fidelity, was discarded and violently opposed.”⁵ During the remainder of his life he would constantly utter invectives in his letters against the Methodists. On one occasion he complains that they had maltreated him, and in another he says they are falling to pieces, and he predicts their entire destruction. Why Jarratt seemed so bitter against them we are not able to see, yet, near the close of his life, he seems to have mollified a little, for, in a letter of 1795, six years before his death, he says, “How to reconcile such palpable insincerity to Christianity I know not, nor shall I attempt it; and yet I cannot but hope that a number of them are good men, notwithstanding Mr. McRobert, perhaps, very justly attributed their professed adherence to the church to nothing but policy—and I suppose, when that policy failed, they fell upon another, which they liked better; *but if this policy was intended for the good of souls and the promotion of religion principally, might not some allowances be made for it, tho’ candor seemed to be lacking?* . . . And, therefore, notwithstanding the Methodists have given great cause to suspect the sincerity of their professions on more occasions than one, *I feel myself disposed to put the most favorable construction on all their movements, which the nature of things will bear.*”⁶

After his withdrawal from the Methodists, his own clergymen seemed to have been more friendly disposed towards him. He was present at their convention in 1790, and he says some notice was taken of him, and that he was invited to lead prayers one of the mornings while there. He was also present at the convention the following year, and was appointed to preach at the convention of '92.

⁵Life of Jarratt, page 119.

⁶Life of Jarratt, page 158.

The old servant of God continued his labors until his death. His body was under many trials and afflictions, but he worked every moment he could. In 1795, he says, "I have now lived in the world just sixty-two years . . . old and afflicted as I am, I travelled more than one hundred miles last week, was at three funerals, and married two couples." Part of his time was spent in writing and revising sermons for the press. Like the prophet of old, he labored until God took him. On the 29th of January, 1801, his soul passed from earth to his God. Bishop Asbury was requested to preach his funeral sermon. He did so from the words, "His lord said unto him, Well done, thou good and faithful servant; thou hast been faithful over a few things: I will make thee ruler over many things; enter thou into the joy of thy lord." In his journal of the same date, Mr. Asbury says of his ministry, "I have already observed that the ministry of Mr. Jarratt was successful. I verily believe that hundreds were awakened by his labors."

Concerning his character, we think it can be plainly read from his works. "By their fruit ye shall know them." Loving, cheerful, always striving for the good of others. To him does Methodism owe a living tribute of praise and glory. He it was who helped them to gain a foothold, and become what they are to-day. He it was who, when oppressed by his own sect, nevertheless went about doing good and striving to fulfil his mission. Would it be saying too much that we see in his life an expression of the spirit of the Master whom he followed, and some of that noble, sacrificing spirit which caused Him to give His life for many? He has passed away to the city beyond, but the world to-day, we of Virginia, are reaping the harvest from the seed which he sowed, and his great works will never be known until the day when all secrets shall be revealed.

LEVEN POWELL.

LEVEN POWELL was born in Prince William county, Virginia, 1737. In 1763 he married Sally, daughter of Burr Harrison, of Chapawamsic, and, shortly after his marriage, moved to Loudoun county, where he bought five hundred acres of land, on a part of which Middleburg now stands.

In 1774, indignant at the attempt of the British government to reduce the colonies to a state of slavery, as Henry termed it, he became actively engaged in stirring up his fellow-citizens to resistance, and, in 1775, was made major of the battalion of minute men from Loudoun county, and was employed in harassing Lord Dunmore's troops in the neighborhood of Norfolk, Portsmouth and Hampton.

January, 1777, he was named by General Washington a lieutenant-colonel of the Sixteenth Regiment of Virginia Continentals, and joined the army at White Marsh Plains, near Philadelphia. The Valley Forge camp was, however, too much for his naturally feeble constitution, and, after a long illness, he was compelled to return to Virginia. His furlough was sent to him by Washington, with the request to use it as long as necessary, but not to resign his commission unless his health imperatively demanded it. In 1778 he resigned. The Virginia Assembly, however, voted him a full share of public lands as though he had served through the whole period of the war.

On the return of peace, he resumed his business, but always took a deep interest in political affairs. He was the founder of the Federal party in Loudoun county, and in 1788 he, with Colonel Clopham, were elected to the Convention of that year, both being in favor of the ratification of the Federal Constitution. The opposing candidates were General S. T. Mason and William

Ellzey, and the canvass was a very bitter one. Their county was so strongly Federal as to control the Congressional district to which it belonged.

In 1796, Leven Powell was the only elector in Virginia who voted for John Adams in opposition to Mr. Jefferson; in 1798, he was elected to Congress from the Loudoun district. He was in Congress three years later, and took part in the notable contest for supremacy between Jefferson and the Federalists.

Not willing to assume alone the responsibility of choosing between two almost equally bad characters, as he put it, he wrote to several of the most prominent of his constituents to learn their wishes and preferences. These letters shed some light on the great struggle of 1800-1801, and tend to show that quite a "respectable" party in Virginia opposed the elevation to the presidency of her foremost son—the owner of Monticello.



CORRESPONDENCE OF REVOLUTIONARY LEADERS.

LETTERS FROM COLONEL LEVEN POWELL TO HIS WIFE.

HEMPFIELD CAMP, Dec. 3d, 1775.

My dear,—I have been here since Monday, cooped up in a little Dent, exceeding hearty, and pass the time off very agreeably. This morning I have received an Express from below to proceed with my little army, now increased to five companies, to Dumfries, from whence we expect to march to Williamsburg to stop Dunmore in his first career, who has proclaimed Freedom to the slaves, and invited them to the King's standard and take up arms against the country. He has largely increased his army by them and Tories.

I do not know whether it will be in my power to come home before I go down, no other field officer being in camp, every minute of my time is employed. I hope to hear from you by every opportunity and that you want nothing my Estate is able to procure. I have ordered a waggon to call at the Mill for flour; by this wagon please to send my black breeches, and if any safe hand offers, my little new gun also. I am in great haste.

Your loving husband,

LEVEN POWELL.

To Mrs. Sarah Powell, Loudoun.

N. B. A pr. Breeches.

DUMFRIES, Dec. 10, 1775.

My dear,—I got here last night just as a piece of good news arrived from Camp. The Battle our Boys had with Dunmore's forces, that I mentioned when I was up, turned out more fatal

to Dunmore than I knew. It seems his loss was a hundred and two, and those of his best troops. Out of his favorite company of Grenadiers he has but eleven left, and they without officers. Upon his defeat he has thought it prudent to take to his vessels, and left his faithful auxiliaries—the negroes—to shift for themselves.

We learn that he has sent off two vessels of war. It's uncertain where they have gone and for what—probably for reinforcements. If this was not feared, we should have no occasion to go down. Some few of our men have deserted since we left town; the horrors of war are too much for their puny stomachs. They will be properly dealt with some time hence.

I received your present of the Venison Ham, which was very acceptable. I've sent the Saddle-Bags in which I return some books which I took with me when I first set out. I sha'n't have time to read them, and they may be lost. The key of the Saddle-Bags I've enclosed. Remember me to the children, my brother, and Miss Nancy; and in great haste I conclude.

P. S. A great stroke has been made to the northward. We have taken Quebec, which finishes the reduction of Canada, and Gen. Carleton so hemmed in that he is likely to be ketched.

I am your loving husband,

LEVEN POWELL.

To Mrs. Sarah Powell.

Per Peter.

HAMPTON, Jan. 13, 1776.

My dear,—I arrived here the day after I wrote you last in very good health, in which state, thanks to the Almighty, I have remained ever since, except one day when I was a little unwell, owing to intemperance, having dined with a gentleman of this town the day before, who makes it a rule to let no one go from his door sober. I slipped privately from him before I was quite otherwise, tho' found I was a good deal unwell all the next day, but was effectually cured at night by going out about 9 o'clock

with a reinforcement to join a party of our men who we learned were attacked by the enemy. This was a guard of 16 men which we always keep posted as the light-house; distance from hence 3 miles, but having two Ferries to cross in getting to it, made it almost 11 o'clock before we arrived; when we got there the affair was over. Ensign Owsley, who commanded the party then, discovered several Tenders making down the road in the evening, and accordingly kept himself in readiness to receive them. About dark they came to opposite his post and attempted to land their men in two boats. His eagerness prevented the total overthrow of the enemy. He lay close until they came within 30 yds. of the shore, when he gave them a fire which was returned from the Tenders with small arms, swivels and four-pounders without effect; however, the Boats tacked about and run with such speed that he could give them but two rounds before they were out of reach. None of our men were hurt. How they came off we cannot learn. Had Mr. Owsley only waited till they got on shore, he certainly would have taken or killed them all. I am, however, well pleased that he behaved bravely, and only failed for want of conduct which experience will mend. It being late when I got there, and understanding that the Tenders were still lying off in the river, I did not return home that night, and next morning had an opportunity to have a little trifling Brush myself with a Tender coming up the Road to join some then lying at anchor, but out of our reach. This Tender came up very impudently not over a hundred yards off from the shore, as if daring of us to turn out. We were then about 150 yards from the shore ourselves and ran out before she got quite against us, and had to run the above distance on the open beach to a little Breastwork erected close on the water side, by which she was to come and at that time very near it. We had not got above half way when she gave us a fire, but seeing it not minded, she tacked about and ran off with all the sail she could make, so that when we got down she was at least two hundred yards from us. We gave her a fire, but without effect, and there the matter ended.

Yesterday two Tenders came up, on their way to Norfolk, with a prize sloop they had taken just out the capes, loaded with salt coming to Archibald Ritchie, of Rappahannock. The sloop being heavy laden, got aground in the morning in view of this town. Last night three of the crew made their escape and came there. we learn from them that one of the Tenders had been out plundering, but was very unfortunate, having a few days ago sent out a party on shore for that purpose, of which they had lost six men, killed and taken prisoner, but when this was done we could not be informed.

Upon going out to view one of the outposts to-day, about three miles from this place, I called at a man's house who I believe is one of those who can suit himself to any times, and is consequently either Whig or Tory according to the company he is in. I was informed by him of the loss the Enemy sustained when they landed to burn Norfolk, which was 40 negroes and 6 whites. This he got from one of the King's Officers since the affair. our loss only one who died of his wounds, except some women and children killed in the streets. Our people have since burned a place called Gosport and some mills and a Bakehouse on the opposite Side of the river, from whence Dunmore and his party frequently got supplies. Whilst I was out to-day, I heard a heavy firing at Norfolk, and saw the smoke of the guns rise, but as yet don't know the occasion.

Tuesday night, 11 o'clock, 23d. Just now returned from a ball and an assembly of fine Ladies, on purpose to finish this letter and some others. Nothing new happened since the above, but more firing at Norfolk and our house burned.

The Convention, I understand, has ordered the remains of Norfolk to be burnt and our troops to leave it; we expect to see the Blaze soon. I have expected by every post to get a letter from you, but as yet have got none. I want much to hear how you all are. When I shall be able to return is uncertain, but expect by

the first of March. You'll remember me to the family, and believe me to be

Your loving husband,

LEVEN POWELL.

To Mrs. Sarah Powell, Loudoun.

Favored by Jon'd Davis.

HAMPTON, Jan. 27, 1776.

My dear Sally,—Since my last to you, nothing of any great consequence has happened here. A few days ago a brig from Antigua came into Hampton Road and applied to our guard, kept at the lighthouse about three miles from here, for protection, which she got, and was brought safe in here yesterday morning. Part of her cargo (which was very trifling) I now send you in one dozen sweet Oranges, which Mr. Grayson is kind enough to promise to deliver to you. By this vessel we get the address of the Lords and Commons to His Majesty in answer to his speech. I presume you have seen the speech, if you have not, I can tell you it is very bloody, and the address fully as much so. From these we may conclude what is to follow—no doubt the hardest send off. When a period is to be put to these unhappy times God only knows. We are here in a state of suspence, this new regulation of the Convention puts us out of our gears, and we do not know what to be at; the most of the captains and subaltern officers expect appointment in the regular service by the Committees, and expect, in that case, they will be able to recruit most of their men as regulars; if this is done, I apprehend that we who are not in that service will be discharged, or matters put upon a better footing than they stand at present is what I wish, as now matters are so circumstanced that a proper subordination cannot be kept up. The firing of cannon in Norfolk, which I mentioned in my last, was to cover the landing of the enemy in order to set fire to some of the houses that had before escaped the flames; this they effected, with the loss of three of their men, which we got, and several we learn since were

wounded. We had three killed, two of which were killed by one cannon ball. Two days ago I was at the lighthouse with the guard that is kept there, and saw the Tenders carry up a Brig which they had taken, which belonged to some of our friends. The river was full of them, a vessel can scarcely pass. I received a few days ago a letter from Peyton Harrison. He is well, and I now enclose you a letter from Vally (Valentine Peyton).

You'll remember me to the family, and believe me to be
Yr. loving husband,

LEVEN POWELL.

Mrs. Sarah Powell.

Favored by Rev. Mr. Grayson.

Only 6 Oranges sent.

HAMPTON, Feb. 24, 1776.

My dear,—I have now before me your favors of Feb. 3d, 9th and 13th, which I received per Mr. Combs and Mr. Tyler with pleasure. I have been uneasy at not hearing from you for some time, and could not conceive the reason, as you might at any time have opportunity by the post. In your first letter I hear of the loss of Nan's child. I am sorry for the accident, but God's will be done. there probably has been some carelessness in her, but not designedly. The papers which you mentioned, left by Mr. Keys, I think had better not be sent, for fear of accident. I suppose them to be bills of exchange. I am much surprised at Captain Bronaugh's not having his money paid him long before the date of this letter; Col. Peyton promised me he would do it immediately on his return home from Williamsburg. I should have sent it from Dumfries, but (by?) his not meeting us as paymaster I am much pinched for cash for travelling expenses.

Col. Hendricks does not accept of his commission, which I did not believe when I wrote you. With respect to him, I am well pleased he does, and took some pains to persuade him to it, but as to my taking his place, it's more than I know of at present or wish. I had rather serve in the place I now hold, with good

men placed over me, than to be raised higher. When I shall be released from here I cannot tell; it depends upon the raising of new troops and the force of the Enemy. I still expect it will be some time in March, but this is conjecture—don't expect me until you see me.

By your 3d letter I am informed of the children's being sick, but am glad to find you say in the same, they are getting better. They will, I hope, recover, and have confidence in God that I shall find you all hearty on my return.

The greater part of our Battalion have enlisted in the Regular service. I think we have of Minute Men not over 82 remaining; Capt. Harrison, I think, has but five left. Our having so few Minute Men here is one reason why I think we shall soon be relieved, and hereafter we shall have no occasion to go further than Alexandria, where, in all probability, an attack will be made ere long.

Since my last letter to you, this neighborhood has been honored by the company of great men. Genl. Clinton and Lord Rowden, from Boston, with what number of forces is as yet a secret, came into Hampton Roads 18 days ago. On Thursday last I had the pleasure of conducting the Hon. Richard Corbin, Esq., on board the Roebuck ship of war, Commodore Hammond, Commander, at the head of a flag of truce, where I had the honor of breakfasting on the best Hyson Tea with the Commodore, Genl. Clinton, Lord Dunmore, and several gentlemen Officers. I was received and treated with great politeness by the whole, and dismissed the moment I discovered an inclination to go. We had some difficulty to encounter before we got to the ship, having Two Ships of War—the Mercury and King Fisher—Three transports and several Tenders to pass before we got to her, the distance hence about 10 miles. The Commanders of these vessels treated us roughly, and we were brought too and boarded by every one. When I mention our uncivil treatment received of some of these vessels, I cannot help observing the very different conduct of one of the others, viz.: the "Kitty" transport. On board this vessel I found 12 or 15 Officers, the most hospitable, kind people I ever met with. It seemed as if nothing would

make them happier than making us so; in short, their treatment was so exceedingly kind and polite, it induced me, on my return, to send them a present, by another flag, of 20 bushels of Oysters, 30 loaves of Bread, a goose and turkey, being such things as I understood they were most in want of. It grieves me to see men of such sentiments as those engaged in such a cause.

I forgot to inform you that I was accompanied with the flag of truce above mentioned, by Capt. Leitch, Capt. Fitzgerald, and Dr. Griffith, and we were much pleased with our voyage. Whether Genl. Clinton intended to strike a stroke here or to go further, I cannot tell, but, from everything I could gather when I was on board, their destination is to one of the Carolinas. However, we keep a very good lookout here.

My brother writes me that the Hatter has run away, and desires to know whether he is to give up the Hatts which were left in the shop. I would by no means keep from a man what was his own. It will be difficult, however, to know who these Hatts were made for. The Hatter had wool from me to make 8 or 9 Hatts; if they have not been received, the probability is that many of them were made out of my wool; at any rate, I ought not to be the only loser. It can be no great inconvenience for the people to wait for my return, which I expect is not far off. I will then do equal justice.

I am sorry to hear of Dan'l Johnson's misconduct; I feared as much when left home. I shall fully depend upon him to conduct my Affairs to the best advantage and in the same manner as for himself, as well with the miller as with the overseer.

I dare say he will excuse me for this trouble as well as for not writing, which he will consider is for the want of paper, which article is not to be had here.

You mention your Mother's illness and that you can't leave home to see her. I should be sorry anything wd. prevent your going. your being absent from home for a fortnight could occasion no great loss or inconvenience. If it does, it should not be considered. On such an occasion you ought to go.

You'll excuse this rough draft; it's wrote in a hurry, and I have not paper to make a fair copy. You will, however, consider me

Your loving husband,

LEVEN POWELL.

HAMPTON, March 5, 1776.

My dear,—In my last I think you were informed of the departure of Gen'l Clinton, since which nothing material has happened but the resignation of Col. Henry, occasioned principally by his not being treated with that politeness which he had a right to expect from the Committee of Safety. This made a great noise and occasioned some disturbance in his regiment, but we understood everything was set right again before he left W'msburg by the great pains he took. I received a letter by this post from Mr. Campbell, of Dumfries, desiring to rent my storehouse in order to put his Alexandria store in. I have written him that he may have it, and expect if he sends up his goods he will also want Board for his Merchant. I must therefore beg that if he should acquaint you that he will take it to have the house, cellar, and c., put in order for him, and also to accommodate in the best manner you can whoever he shall send up to take charge of the store.

If you should be in want of money or anything else Mr. Campbell will furnish you, and I beg you will not want anything that may be had or that you may find yourself inclined to get. When Col. Peyton left W'msburg last he promised to be down in one month from that time. By him I intended to send you some money, but his disappointment has not only prevented that, but really distresses me here. I have for some time past been compelled to borrow money, a matter that will at all times give me pain. The time approaches fast, and I hope is not far distant that will give us another meeting. Formerly I expected that the first of this month our Battalion would be relieved; there is now

near a certainty of that happening in 2 or 3 weeks. I shall endeavor to get John Burke and some others to go home sooner.

You'll remember me to the family and believe me to be

Your loving husband,

LEVEN POWELL.

Mrs. Sarah Powell, Loudoun.

Care Mr. Campbell, Dumfries.

WILLIAMSBURG, Dec. 31, 1776.

My dear,—I arrived here in health about the 26th inst. About two days ago came in the last detachment of our Battalion; the most of them in good health. Our destination is not yet determined on, though I believe we shall be divided. Two companies remain here and the rest sent to Hampton, with whom I expect it will be my lot to go, which is indeed my choice. At this place nothing is done except mounting guard to protect what seems to me hardly worth our notice, and there some of Dunmore's Tenders are frequently to be picked up. I am at present in a state of suspense. The Convention is about raising six new Regiments of Regulars, at the completion of which the Minute plan will be abolished. Whether I am to be continued in the place I now hold in the regular service is uncertain, so numerous are the applications and the Convention seems very desirous of themselves, Cousins or Friends, which makes my appointment very doubtful. This matter I expect will be fixed in two or three days. However this matter may be determined, I do not expect to be up until the spring, as I cannot leave the Battalion until they are discharged as Minute Men.

Several of the members of the convention have inquired of me whether I would chuse to be continued in the place I now hold in the Regular service, which I have answered in the Affirmative. The desire I have of being instrumental in the relief of my country out-ways every other consideration, tho' I confess I wish the point settled and that I could spend the rest of my days in my family.

I've nothing to write you that I expect will be news or what you'll not find in the newspapers, which I have ordered the printer to send up. We have had frequent accounts in Town of cannon firing about Norfolk for three or four days past, which they did for three or four days successively, which occasioned many conjectures, but last night we learned that the ships were only firing Xmas guns. I should have but a poor stomach for such mirth were I in their situation, which must be distressing. Indeed, I have heard from very good authority that Dunsmore has been drunk, and they say mad, since his defeat at the great Bridge. His conduct and fate are enough to make any man so. He has now on board and under his protection a number of women and children, whose behavior made them think it dangerous staying on shore, and they have been obliged to send to our officers begging provisions and firewood.

We have here a goal full of Tories and Negroes taken as prisoners, and I hear that there is now on the road a great many others coming up from Norfolk under a guard commanded by Capt. Johnston. How the people are to be disposed of cannot yet be known. From the best authority I can get, the boys Peyton and Vally are at Norfolk and well, though I have no certain intelligence. It is distant from here about 100 miles.

I hope to have the pleasure of hearing from you as often as you can. Direct your letters to me at Hampton, to the care of Mr. Purdis, in Williamsburg; they may come by post.

Remember me to the family and believe me to be

Your loving husband,

LEVEN POWELL.

LEESBURG, Oct. 19, 1777.

My dear,—I have just got safe to this place, and am just about setting out again. I hope by this time you must be a little more composed in mind. I am myself. One thing is sufficient to do it—let us steadily give ourselves up to the disposal of God, and patiently submit to his will, and the business is done. I am now

in a hurry and can say but little; from camp I will write more fully; the purport of this is to inform you that I have engaged two weavers from among the prisoners here—one for Mr. Thomas Chinn, the other for Mr. Joseph Farrow. They seem very much pleased with the change, and think they will be very serviceable to the neighborhood; the letters sent for Mr. Chinn and Mr. Farrow send to them this evening. I promised the men they should be sent for to-morrow.

I am with much love to yourself and family,

Yours sincerely,

LEVEN POWELL.

Favored by Major Pickett.

CAMP AT WHITE MARSH CHURCH,
II MILES ABOVE PHILA., Nov. 7, 1777.

My dear,—As I cannot omit any opportunity of writing you, I make use of this to inform you, first, that I am well, and second, that an affair happened the day before yesterday that not only does great honor to the American armies, but in my opinion it will be of infinite importance in its consequences.

On the 4th inst. we had notice that a large body of the enemy had gone out of Phila. in boats and two floating batteries to attack our Fort at the Cheveux de Friese, and it was to be made the next day, being the 5th. This affair engaged the attention of the whole Camp, and our anxiety for the safety of the fort was very great, and which was considerably increased when the firing began early in the morning of the next day. I could not forbear, with some other gentlemen, from riding down to a place from which we could have a view of the action, but the dulness of the day prevented our seeing the affair as distinctly as we could have wished.

This morning we have received the account of it. It seems the enemy made a vigorous effort, but was repulsed at three different times, and tho' we have got the account of their loss, we are convinced from the nature of the attack and the defence our people

made with grape shot, that it must be very considerable, and I think it will be the means of the enemy leaving Phila. perhaps in a week's time; provisions are exceedingly scarce and bad, and I have not much doubt but the enemy must go.

A detachment from Gen'l Gates' army, we are told, are near at hand. When they get here every avenue from the town to the country will be stopped up, when they must fight on disadvantageous terms, perish, or leave the city. It is a great misfortune that we have not more men; 10,000 more would have finished the war some time since without fighting. The Militia will not do; they are restless, cannot wait in Camp till advantageous opportunities offer for action.

Gen'l Clinton has evacuated Ft. Montgomerie and burned everything on the shores of North River, secured himself again in New York.

I have not been able to find out the strength of our army, but I think there is not much difference between that and the enemy's.

Having bad conveniences for writing and a crowd around me in a small Tent, I must conclude.

Desiring that you will write me when a safe opp'ty offers, and believe me, with love to the family,

Sincerely your loving husband,

LEVEN POWELL.

I hope to have the pleasure of seeing you this winter.

NEAR THE VALLEY FORGE CAMP, January 21, 1778.

My dear,—Since I wrote you by Capt. Grant I have had the misfortune to have a severe spell of sickness, the effects of which I have not got quite clear of. A few days after he left I was taken with a flux, which, however, left me in 8 or 9 days, and in its place came on the Yellow Jaundice. This was more lasting, but was at length got the better of. During the time of the Jaundice I was seized with a small pain in the upper part of the forehead, just over my left eye. This after several days became very

troublesome, and at length began to swell, particularly about the eye, and to break out in little sores. The swelling increased until I lost the sight of that eye, and which was very near being the case with the other. Dr. Griffith, who was at the same house with me, prepared an ointment, which was applied to the place as a plaster; this with two blisters which I have had drawn and the blessing of God, has so far restored me as to see pretty well again out of that eye; the other is perfectly well. The breaking out in my head and forehead seems now to be my only complaint, except the redness and weakness in my eye; these seem to be healing, and I trust will be nearly cured in 8 or 10 days. The Doctor calls it St. Anthony's fire; be it what it will, it has given me great pain and confined me a great while to my room. I walked out to-day for the first time for these many days past. I have as comfortable quarters as any one could wish at the house of John Rowlands, who is an able farmer, and the people are remarkably kind and cleanly.

When I wrote you last I fully expected to be at home before this, which I believe would have happened had it pleased God to spare this spell. However, as soon as I am able to travel with safety I think to set out for Virginia. It will be some time before it will be safe trusting my eye in the cold, and as I have a warm room I think to stay until the danger is over.

The news of this place is not much. The army has got themselves comfortable quarters in their Tents. Gen'l Smallwood, who is stationed at Wilmington with our Division, has lately taken two prizes, the first a Brig with a valuable cargo, consisting of Arms, Tents, Soldiers' Clothes, Officers' Baggage, Wine, Rum, Porter, &c. In this vessel was about a dozen ladies, going to see their husbands, Officers in the King's army. They were sent on with a Flag. The wine is excellent. I have got some of it, which his Excellency was so good as, upon hearing I was sick, to send me three bottles. The other vessel was not so valuable, tho' a pretty good prize.

We also learn that the Canadians are about to revolt. Five

hundred N. England men have gone up to join them, or at any rate to burn all the vessels the enemy have on the lake, which will effectually prevent an invasion of the enemy from that quarter the next campaign.

Remember me to the family, and believe me to be

Your loving husband,

LEVEN POWELL.

Mrs. Sarah Powell.

Favored by Dr. Griffith.

P. S.—I have sent my bedding and Markee home by Dr. Griffith's waggons.



LETTERS OF THE REV. DAVID GRIFFITH* TO COL.
LEVEN POWELL, 1776-1778.

CAMP AT SPRINGFIELD,
NEAR WILLIAMSBURG, 16 June, 1776.

Dear Major,—In the full expectation of having something agreeable to tell you, I delayed writing to you by Val. Harrison so long that when the time came for his setting out I had not time to say a word. I expected to have had the pleasure of congratulating you upon your appointment to the command of three Minute Companies at Alexandria. But frugality being the Plan, the scheme is altered, and an order is gone up for the two Loudoun companies, when completed, to march to Alexandria and relieve Major Marshall,¹ who is ordered to march down with the remainder of our Reg't.

You will easily see that this is done to avoid the expense of a Field Officer. But this you be assured of, that you will be the

* The Rev. David Griffith, M. D., was born in the city of New York; was granted the degree of M. D. in London about 1762; in 1763 he commenced the practice of his profession in New York. Having determined to enter the ministry, he went to London in 1770, and was ordained by Bishop Terrick August 19, 1770. He was for some time missionary in New Jersey, but finally went to Shelbourn Parish, Loudoun county, Virginia.

In 1776 he entered the Revolutionary army as chaplain of the Third Virginia Regiment. In December, 1776, he was acting as a surgeon in the Continental army in Philadelphia. From 1780 until his death, in 1789, he was Rector of Christ Church, in Alexandria, Virginia.

At the second annual convention of the Diocese of Virginia, held May, 1786, Dr. Griffith was chosen Bishop, but such was the depressed financial condition of the Episcopal Church in Virginia at that time that a sufficient sum of money could not be raised to defray his expenses to England for consecration.

¹ Father of John Marshall, the Chief Justice.

first in the Minute Service that will be employed. I have this assurance from the President and several leading members of the Committee of Safety.

George Johnston¹ quitted the service yesterday, through necessity. It was his intention to have continued the remainder of his time, But a Plan has been adopted that compelled him to retire sooner. The Committee of Safety ordered all the Officers in the army who had not got Continental Commissions to appear before them and receive or refuse theirs. The only Commissions refused were by Capt. Johnston and some 6 Subalterns of the same Regiment, and Gen'l Lewis yesterday declared in Publick Orders that "All Officers who had refused Continental Commissions were not to be considered Officers in the army. The consequence is that none who refused and are about going home appeared in the Field yesterday.

This step will, I hope, be the means of restoring Peace and quelling that factious spirit so evident in the Second Regiment. Entre nous. This is in my Opinion the worst disciplined Regiment in the line, (though they boast of being Veteran,) and the Officers and Men the most profane and disorderly of any I ever met with.

Our old Col., (now Brigadier Gen'l,) is just arrived from Gwynn's Island, where he went to command. He tells me that some of the British Ships have taken and brought in there a Spanish Ship with 12,800 Dollars on board coming to some of the Colonies to trade.

They are fortifying on both sides; But the General thinks that with a few pieces of Heavy Cannon the whole fleet might be driven out of the Harbor.

There are in Camp at this place 7 companies of the 2d, 6 companies of the 6th, and 3 companies of ours. Part of the 1st Reg't is encamped behind the college. ²Major Hendricks commands at Hampton with 5 companies, Major Green at York with 3 com-

¹ A prominent officer from Halifax county, Virginia, died 1777, at Meriden.

² James Hendricks, one of Powell's friends.

panies, Col. Stephens at Suffolk, Col. Daingerfield at Gwynn's Island. The last is in a bad state of health, and it is thought that Stephens will go there. Muhlenburg with his Reg't is gone with Gen. Lee into So. Carolina.

The Convention have agreed to raise 6 Troops of Horse. Harry Peyton is chosen a Cornet in one of them. The Eastern Shore Reg't is to be augmented to the same complement as the other Reg'ts, and a Battalion of Riflemen for the Frontier is to be raised by order of Congress. The Bill of Rights is passed, but differing materially from the printed bill handed about and in the papers. They are now about to form a Government, and expect to adjourn this Day week.

I forgot to mention to you, when I had the pleasure of seeing you, the great difficulty I had in getting a Curate for Shelburne Parish. My friends to the Northward inform me there is none to be had. Mr. Kenner will not go to Loudoun, tho' I offered him all the Salary and Perquisites, and I believe there is hardly another Clergyman in the Colony without a Parish. I cannot hear of such a man here. I should be glad you would make it known to the Vestry that if they can get a man who will be acceptable to the people, who will act in my absence, I will readily give him the whole Salary and Perquisites for such time.

There are several gentlemen of character in Town from Georgia and the Carolinas. They all assure us that they have plenty of good arms and ammunition in those Provinces, tho' the two Southernmost are very weak in men.

The Convention have allowed them to recruit in this Colony, but have limited the number.

Please remember me to Mrs. Powell and all Friends, and believe me, Dear Major,

Your affectionate, humble s'vt,

D. GRIFFITH.

COLLEGE CAMP, 8th July, 1776.

Dear Major,—You were rightly informed when you were told that we were ordered to Carolina. The 6th Regt. had actually marched to Jamestown, and we were to have followed yesterday, but on Sunday morning an express arrived countermanding us. What has occasioned it is not certainly known.

A report is circulating that Clinton's transports were driven ashore in a gust, that he was killed and his troops cut off. This has not yet been contradicted. Several people from No. Carolina say that letters were received there from Charlestown confirming it. However, we may conjecture this much, that our affairs to the southward are in a flourishing way, or General Lee would not have sent back the troops. The No. Carolina troops are likewise returned.

A great change has happened since I wrote you, in the destination of the troops. Hampton, York, Jamestown and the Post at Burwell's Ferry are occupied by the 1300 Minute Men lately raised. The 6th is gone to the old camp at Springfield; 6 companies of the 1st and 4 companies of the 2d are to march for Gwynn's Island to-morrow, where Col. Stephens is to command. We are to remain here until further orders. General Lewis and Cols. Woodford, Stephens, Buckner, Christian and Weedon set off for Gwynn's Island this morning; an attack is meditated if practicable.

Lord Dunmore has been reinforced by 200 Tories from the Eastern Shore of Maryland. They are exceedingly troublesome in that quarter. Col. Fleming has been obliged to march with part of his Regiment against them and has quieted them.

163 Barrels of Powder and some other necessities are certainly arrived at the Eastern Shore for the Continent. I saw the letter to the Council confirming it. More is shortly expected, and a very good Correspondence settled for further supplies.

Our Delegates from Congress assure us publicly that Independence would be declared in form the 1st of this month, but I suppose you will have it confirmed before you receive this. A

gentleman in town, from Philadelphia, told me this day that he heard Mr. Chase declare in Convention at Annapolis, that a gentleman then present in the Convention (tho' not a member) had, of his own free will, made a visit to France and Spain, and that he had assurances from those Courts that they would enter into an alliance and treaty of Commerce with America whenever she would declare herself Independent. What think you of that, Major?

Gov. Henry is very ill. I saw him this morning, and am much afraid he will not stay long to enjoy those honors which his country has so deservdly heaped upon him.

Col. Marshall arrived yesterday with the Company from Alexandria, who with the rest of the Regiment are, in general, very healthy. I have only to add that I am, in great truth,

Yours very affectionately,

D. GRIFFITH.

Who is to be your next Senator?

WESTMORELAND, 5th August, 1776.

Dear Major,—The sudden and unexpected departure of Mr. Tyler, (who has resigned,) will only leave me time to say that we were ordered from Williamsburg a fortnight ago to protect this country from the depredations of Lord Dunsmore's fleet. Our further stay for that purpose is unnecessary. The whole Fleet sailed on the 2d in two divisions, and are gone down the Bay. It is supposed the first are gone to St. Augustine, the other to N. York.

We are well informed from Maryland that they lost about 200 men in the three weeks they were in this River; 140 or 150 were buried by the people on the Maryland side. They burnt between 30 and 40 sail of their vessels, and are gone off weakly manned.

The Alexandria Gallies came down, but could do nothing; they are returned. We expect orders hourly to march toward N. York. The Congress has certainly ordered two Regiments from this Colony, and have agreed to pay as many of our militia in

their absence. Our stay here is now unnecessary, and as we are the best equipt of any Regiment for the march (tho' far from being well furnished,) and are the nearest to that country, I think it will fall to our lot to be on. The Officers and men all desire it.

We are still tolerably healthy, and have lost but two men, who were left behind in the Hospital.

I am, Dear Major,
Yours, &c.,

D. GRIFFITH.

P. S.—Bob and George Peyton are both appointed Ensigns, and are acting as such. I have directed a letter to Mrs. G. to your care, which I should be glad to have forwarded soon.

To Major Leven Powell, in Loudoun.

SEPTEMBER 19TH, 1776.

Dear Major,—In addition to the inclosed, I send you a copy of the General Orders, that you may have a Just Idea of the sense the General entertains of the service done on Monday and of the respect paid to Major Leitch.

Several people who are come in to us say that the Enemy mean to attack us in a Day or two, and we can distinctly see them bringing over their Cannon and stores from Philadelphia for that purpose, and their ships are come here from the North River.

I wish it may be delayed a few days, as our works are very incomplete, and I am afraid will not be very good when done.

Adieu,

D. GRIFFITH.

PHILADELPHIA, 8th Dec., 1776.

Dear Major,—I arrived here yesterday from the Army, which I left at Princeton. I am here for the purpose of seeing the sick put into the Hospital, and send the well back to the Army. Indeed, Major, we have much need of a speedy reinforcement. I

am much afraid we shall not have it in time to prevent the destruction of American affairs.

When I left the Army two days ago things wore a tolerable aspect and our troops were again advancing, but the Enemy have since been strongly reinforced. Gen'l Howe has put himself at their head, and has come on so rapidly that Gen'l Washington was obliged to quit Trenton yesterday evening and crossed the Delaware with his whole army. Gen'l Lee has about 5,000 men with him, but has not yet joined the main army. Whether that can now be effected is uncertain; the River is now between them, and Lee is now much exposed to the whole force of the Enemy. Everything here wears the face of despondency. This town will not turn out 2,000 Militia, notwithstanding all their Parade, and the whole province of New Jersey has not furnished more than that number.

No Militia has joined us yet from the back counties of Pennsylvania, and I am afraid but very few will. A strange consternation seems to have seized everybody in this country. A universal dissatisfaction prevails, and everybody is furnished with an excuse for declining the publick service. Publick Virtue seems to be quite extinct. The most excessive extortion prevails amongst the Inhabitants, and the greatest Peculation and Avarice among the servants of the Publick.

General Washington has not, at this time, more than 4,500 effective men with him, exclusive of what Militia may have joined him. Could a Junction of the whole be brought about he would have a respectable force, but I am much afraid our worthy General will be left a sacrifice to the stupidity and baseness of New England politicians. What think you of the Eastern Delegates? Notwithstanding the deplorable condition to which their policy has reduced their country, yet they have had influence enough in Congress to have the Resolution for Raising Troops for the war revoked, and have determined that they shall be raised for 3 years only.

I am told that two of our Delegates have joined them in their

schemes. You will not be at a loss to know who I mean. It is thought that Gen. Howe aims at this place. If he pushes on briskly he will get possession of it without much difficulty. Gen. Washington cannot prevent it, and the Inhabitants will not. You may conceive what will be the consequence should it fall into the Enemy's hands.

I am sorry that I have it not in my power to communicate intelligence that would be more agreeable, but the present prospect is very gloomy, and I think that nothing but the most signal interposition of Providence can save our country from destruction. That the Sovereign Ruler of Events will stretch out His arm for its protection is the fervent prayer of

Your affectionate, humble serv't,

D. GRIFFITH.

PHILADELPHIA, 27th Dec., 1776.

Dear Major,—The enclosed handbills will inform you of an event which now gladdens the hearts of all Friends of their Country in this Town. It's a part of a letter from Col. Biddle, D. Q. M. Gen. to Genl. Mifflin. He was present at the transaction, and at the time of writing the Letter, was at Newtown, in Pennsylvania, providing Quarters for the Prisoners he mentions. The Prisoners were with him. The Expedition was conducted by Gen. Washington, in person, at the head of 4000 men. The Virginia Troops, I believe, were all there. They crossed over the evening before, 4 miles above Trenton, and attacked them very early in the morning. It Rained, Snowed and Blowed excessively, but our People were so situated as to have it on their Backs.

General Washington's design was a very grand one, and as well contrived for the Destruction of the Enemy's army as anything that can be conceived. It was intended at the time he crossed the River with his Division (the enemy being contoured in several villages in Jersey and near the River), Gen. Ewing with his Brigade should cross the Delaware at Trenton, to intercept them in their Retreat, and Col. Cadwallader, with the

Philadelphia Militia, was to cross the River 12 miles below Trenton, attack the Parties posted near Burlington, and after joining the other Divisions of the Army, the whole was to march against the Enemy and attack them divided in the Contorments. A part only has been executed as yet. There was so much Ice at the Falls of Delaware and below it, yesterday morning, that neither Ewing nor Cadwallader with their troops could cross. Genl. Washington, with his division, is returned into Pennsylvania.

The whole design is not yet abandoned. Genl. Mifflin, with 2000 Troops from this place, and the Militia of this town, under Cadwallader, making in all about 4000, are to cross the River at Bristol and make an incursion into the Jerseys. Gen. Mifflin sets off to-morrow.

This affair has given new life and spirits to the cause, and has lowered the Crests of the Tories in this Place, who looked upon the matter as settled, and were hourly expecting the King's Troops to arrive without molestation. Things begin to wear a better aspect, Major, than when I wrote you last (by the bye, I have written you once a fortnight, at least, tho' you complain so heavily; and within the last five weeks, I have written you 4 letters).

General Washington's Army is now become respectable. He has between 12000 and 15000 men, and is growing stronger daily. Gen. Mifflin came to town last night from the back counties of this Province, where he has been to rouse the People. He tells me that there is a Virtuous Disposition in the People, but they have been discouraged by People of fortune and influence, and that their Officers have been backward. They are, however, now coming down pretty generally; this good news, I think, will hurry and encourage them.

Generals Heath and McDougal are in New Jersey with 2500 men. They have retaken at Hackinsack most of the stores lost at Fort Lee, and have made prisoners many Tories who had taken arms in favor of the King.

The state of things in the New England Colonies I mentioned in my last. The account I then gave is pretty well confirmed.

We are made to believe that we are to have a reinforcement of 3000 men from Virginia. Is it true? and when will they be here? For tho' our fears are a little quited for the present, yet we have much reason to wish for succour. Militia are precarious as to the time of their stay, and the time of some of the Continental Troops and some flying Camp men will expire on New Year's Day. The whole may amount to about 3000 men.

I am sorry to hear of Col. Peyton's prodigious loss by disease, and of your own. I hope the cold weather will put an end to so fatal a Malady.

You will please to remember me affectionately to all your good Neighbors, and believe me,

Very sincerely yours,

D. GRIFFITH.

Fitzgerald is made Aide de Camp to Gen. Washington in the room of Col. Cary, of Maryland; and poor Hendricks lies very ill in the neighborhood of the Army.

To Major Leven Powell.

PHILADELPHIA, 14th Jany., 1777.

Dear Col.,—For so it seems I am to call you now, Grayson has a Regiment, and you are appointed his second.

I congratulate you on the occasion, as I also do my country.

What little news there is I have mentioned to Mrs. Griffith. I intended to have written you, but was obliged to break off last night, and this day have not had time. Excuse me, and by the next Post I shall send all that is worth hearing.

If you are very anxious, and will wait on Mrs. Griffith with the enclosed, she will, I fancy, inform you of what you will be pleased to hear. Adieu.

Yours, &c.,

D. GRIFFITH.

MORRISTOWN, 20th Feb., 1777.

Dear Col.,—The uncertain state in which I have been for some time past has prevented me from writing, either to you or Mrs. Griffith. I have been in the expectation of returning home, but from the situation of things have not asked leave. Yesterday I obtained it, and wait only for Draper's return to set out. He is gone to Philadelphia, and will be back in a few days.

Our Army is now at least equal to the enemy's in number. We hem them in on every side, and they can get nothing but out of the fire. They are most distressed in their situation, but as we cannot attack them but under disadvantages, and as a failure would throw our affairs into a much worse situation than they are at present, it is thought best to let them alone. This much is certain, that without far greater reinforcements than we conceive they can get soon, they will not be able to penetrate into the country.

We have favorable accounts of the Recruiting service from all quarters, and we hope that we shall soon be so strong as to insure success whenever we attack them. A party from Gen. Putnam's Division surrounded one of their outposts yesterday morning, killed seven, wounded several, and took sixty-nine prisoners. They were stationed at a place called Roundabouts, on the Raritan River. Two British and four Hessian deserters came in last night, but I have not heard what accounts they bring.

The King's speech you will shortly see in the Papers. We have some debates in Parliament from which, and other channels, we have the most certain account that there is a strong Press in England.

The messenger who takes this is waiting for me to finish.

I have only to add my desire that you would send this over to Mrs. Griffith as soon as you conveniently can, as I have not time to write a second letter.

In expectation of seeing you and her shortly, I remain, D'r Col., Yrs. very affe'tly,

D. GRIFFITH.

CAMP NEAR BOUNDBROOK, 28th May, 1777.

Dear Col.,—Time would not permit me by the last Post to send you more than a Scrall, with an inclosed letter for Mrs. G., to whom I refer you for intelligence. It is probable that it may not have come to hand, but fresh Occurrences, tho' not very material, will be more entertaining than past ones.

The day after I wrote the above-mentioned letter the whole of our Troops contained along our lines received orders to march to the place fixed upon for the whole army to assemble. They are accordingly all arrived here; and Princetown excepted, all those posts are evacuated, from which our Troops the past Winter have given great annoyance to the Enemy, and prevented them from Plundering and Desolating the Country.

We are encamped in an extensive and well cultivated valley, formed by two hills nearly as high as the Katoctan Mountains, and covered with a very thick wood on their tops. The Mountain in our Front is accessible in only a few places, and those passes very strong. The Camp is, in my opinion, very Judiciously Chosen. It is strong, is at a convenient distance from the Enemy, being two miles north from Boundbrook, a little village on the Raritan, 6 miles west from Brunswick, and we are at hand to pursue the Enemy whenever they choose to move.

By calling the Army all to this place I am sensible that individuals will suffer distress; they are entirely exposed to the depredations of the Enemy, who are much in need of such things as they have to lose. But many circumstances made the measure absolutely necessary. Philadelphia seems still the object they have in view. Certain Intelligence has been received that they had removed their heavy Baggage to New York; that the principal Tories had removed their effects from Amboy and Brunswick; that they had been pressing horses and waggons on Long Island and Staten Island. They have also taken the field and are strongly encamped near those towns, where they are wintered.

These appearances make it probable that the Enemy mean to move, and as we were situated we could give them little annoy-

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These appearances make it probable that the Enemy mean to move, and as we were situated we could give them little annoy-

ance, and they might perhaps have crossed the Delaware before we could collect sufficient force to annoy them.

The Troops begin to come in pretty fast, and I have been this day informed from good authority that by the 10th of June we shall have in this camp at least 12,000 effectives.

All the Maryland Battalions are to remain in Princetown under Gen. Sullivan. I do not include those in the number. We are to have no New England Troops on this side of the North River. Gen. Putnam has gone to Peekskill to command them.

I have much reason to believe that if the Enemy is not very strongly reinforced before our reinforcement comes in we shall make an attack upon them, especially if they remain divided. A successful stroke at this time would, I am confident, put an end to the War. The Gen. joined the Army this evening from Morristown; Headquarters are now at this place. Col. Johnston continues very ill; his life is despaired of. He is at Morristown.

An affair happened about three days ago which did much honor to our Troops and sets the Enemy in a contemptable light. It was expected that the Enemy meant to surprise some of our Pickets early in the morning, and Gen. Wayne with a detachment was sent at daybreak to support them, if the Enemy should attack. He had hardly crossed the Bridge at Boundbrook before his detachment was fired upon. They instantly fixed Bayonets, when the Enemy gave way and retreated so rapidly that Wayne, who followed them $4\frac{1}{2}$ miles, could not get near enough to engage them. They formed three columns and fired upon our people from 300 to 500 yards distant, without any other effect than wounding 3 men. Some of their Horses and one of their riders were killed. The enemy was about 800 strong and had several pieces of Cannon.

With compliments to Mrs. Powell and all Friends, I am, Dear Col.,

Yours, &c.,

D. GRIFFITH.

To Col. Powell.

VALLEY FORGE, 3d June, 1778.

Dear Col.,—Want of opportunity has put it out of my power to fulfil my engagement to you as soon as you may expect, and as things are not yet in a quite settled state, it is not in my power to give you all the satisfaction you desire.

The Army is just where it was when you left it, but very differently circumstanced; things seem much mended for the better. Everything wears the appearance of neatness and order; the men are very well clothed, but not quite all armed. We have plenty of provisions and forage. The Hospitals are well supplied and neatly kept; You hear of no complaints now from that or any other Department. The strictest attention is paid to discipline since the appointment of the new Inspector-General, the Baron Steuben (a Prussian), and I think the whole army is much improved in that particular. Every Brigade is out twice a day, and has been for many weeks past.

All the proposed Regulations have not yet taken place, but Congress have them under consideration; what they have confirmed is, allowing the Staff to be taken out of the Line, and allowing half pay to officers for seven years. They have determined nothing yet respecting the number of Regiments, nothing is done concerning the 16 additional. As to our numbers, I cannot speak with certainty, but I imagine it does not exceed 14000 men, exclusive of the two Brigades under Smallwood.

There are very few men come from New England, tho' many are recruited in those States; they are all stopped at Peekskill, where an army is forming under Gen. Gates. The Quotas of New York and New Jersey are quite complete. The Maryland Brigade are very strong, and it is expected they will be complete in a short time. Virginia makes the poorest figure of any State in the recruiting way. People from other States do not forget to tell us of it. The corps of Artillery is very strong; they number almost double what they were last campaign.

We have been in the daily expectation for ten days past of going into Philadelphia. All the accounts from that place, for

three weeks past, agree in confirming the opinion that they are about to evacuate the city. People are coming out daily, who all say that they have wooded and watered their vessels, have embarked their Baggage and Cannon, that the Tories have had notice to embark their property, and many are actually gone on board. Most of their ships are actually got through the Cheveaux de frise and lie below Chester.

The British make no secret of declaring that they are going to some place to collect their whole force, and that Rhode Island is to be evacuated. If our accounts from New York are to be depended on, they are preparing to evacuate that place. It is expected our next move will be through New Jersey toward that city, but we shall not stir until we have the fullest assurances that they have evacuated Philadelphia. The whole army has been under marching orders for a week past, and everything is ready to move at a moment's warning.

All the accounts you have heard from France are abundantly confirmed; a duplicate of the Treaty and the original copy have since arrived. The last papers from Boston mention the arrival of five large French ships with goods, one of them a King's ship of 36 guns. They bring 12000 suits of clothes among other things. Goods of all kinds are very plenty in Boston.

We are all in high spirits, hoping a speedy and happy end of this contest. May the Almighty God grant it, is the fervent prayer of your affectionate

Humble Servant,

D. GRIFFITH.

*Col. Leven Powell,
Loudoun County, Va.*

CORRESPONDENCE OF COL. LEVEN POWELL, M. C.,
RELATING TO THE ELECTION OF 1800.

T. EVANS TO COL. LEVEN POWELL.¹

ACCOMACK, Oct. 30, 1800.

Dear Sir,—Your kind favour of Aug. 24 from Alexandria came to hand: it found me however labouring under a fall fever, which has attacked me, after small intermissions, three times. I do not recollect to have had so much of sickness in my family & the neighborhood generally as we have experienced this season. I am not at present entirely relieved of its consequences; I hope however to be with you at the day appointed. Immediately after the receipt of yours I wrote to Mr. Dennis, informing him of what had been done. He was however at the same time on his way to my neighborhood & missed the letter till his return, but coming to see me I shewed him yours and he expressed himself to be under obligations to you for your attention: he says he shall not be able to come on for perhaps the first week or ten days, but wishes to retain his station among us & those whom you mentioned.

We now approach the important day of choosing electors: I suppose the prejudices of a majority of our fellow citizens, & the unprinciples mode of election, will wholly silence, or at least render ineffectual, the sentiments & wishes of a respectable portion of the people of Virg'a. It is an experiment perfectly in the Jacobinical style, rendering laws, when passed, perfectly inefficacious, if not aided by a central committee, who create and direct

¹ This letter is especially interesting, since it shows election manoeuvres at that day; and more especially as it came from a good Federalist.

the affiliated committees in a manner concealed from public view throughout the country. Govt., if such measures may be so called, thus becomes the property of a few daring characters, whilst antient forms for a while remain, tho' they cannot possibly be more than forms.

The indignation of the people hereaway is considerable at the attack thus made upon the vital principle of republicanism—the right of suffrage itself. Instead of the govt. resting upon the virtue & intelligence of the people, they find that right so modified as to render those qualities perfectly useless: if they could be exercised, it is to be presumed the result would appear generally in the selection of characters worthy of their choosers. So sensible seem those who advocate the present mode for excluding the use of those qualities of this consequence that it has been solemnly stated by one of its champions that “talents are not necessary and experience is not required” in an elector; for why, he acts as a puppet of a sett of self-created Directors, who have nominated him & prescribed him election to the people. The idle & the ingenious have often amused themselves with sailing ploughs, carriages to be moved by springs, & even wings to elevate men among the feathered creation; but from the days [of] Daedalus to those of Montgolfier no great advantage has been derived from their ingenuity: the former lost his son & the latter, or at least some of his coadjutors, their lives by their extranatural inventions. It seems probable, as *intelligence & experience* are now declared to be inessential in an election, we shall soon have other discoveries of a similar nature: religion itself & a belief in the immortality of the soul, which makes of man, otherwise the most ferocious, a social being, may possibly be discarded as anile fictions. Churches are little more than heaps of bricks & stones, but sufficient for him who was born in a manger, & virtue itself may soon perhaps be declared to be nothing more than a name. But what shall we gain by this? Why! post-boys¹ & lacquies will soon be able to discharge all the most important

¹ All this is a thrust at Jefferson; (1) his religion, (2) his requesting the notification of his election to the Vice-Presidency to be made through the mails.

Military, Political & Civil functions. Your Washingtons, your Adams & such characters will no longer be necessary, and Human affairs will go on without the expence of virtue or talents, & the Golden Age will return, when man shall have again to fight the tuskey boar for his scanty pittance of acorns.

To laugh were want of goodness & of grace
And to be grave exceeds all power of face.

But enough of this!

Disgusting as is the mode of election, I trust the people, seeing no alternative, will pretty generally turn out, & shew to the other States of the Union that there are some yet who love & revere the name of Washington, & will support none but those who deserve to be called "Washingtonians."

With every sentiment of esteem, I am, Dear Sir,
Your most obedt. servt.,

T. EVANS.

Colo. Levin Powell,

COL. LEVEN POWELL TO MAJ. BURR POWELL.

WASHINGTON, Jany. 12th, 1801.

Dear Burr, * * * * * * *

With respect to the two men who stand before us for the presidency, from the best information that I am able to get, in point of Character & Moral principles they are pretty equal; in point of talents, with a mind fearless of the boldest of undertakings, Burr has greatly the superiority, & therefore abundantly the most dangerous. As I shall feel a repugnance in voting for a man who in my conscience I believe unfit for the office he wishes to fill, I may probably give no vote. If I should, you will readily see on which side. I was stoped [interrupted] here by Mr. Wales, who came into my room, just returned from Phila. He states Burr's private character greatly less objectionable than it had been before mentioned to me, & which makes him more reconcilable, but both fall far short of what they ought to be for

that important office. Altho' my Vote will count nothing either way, I would wish to give such a one as I would do if it would decide between them, but not being able to make up my mind as to which would be best, I shall write to my friends & be governed by their opinions.

The enclosed letter is from Mr. Williams, a member of Congress from No. Carolina. It is to let him know that the ex'ors of a Mr. Settle, or Suttle, has put a bond into his hands for collection, & which you are requested to contrive to him & get his answer. This Mr. Settle, I understand, is the man who several years ago moved from our County near the Ridge, & is the man ag'n whom [an acct.] stands on our books—I believe on the books of S. B. W. I wish you would draw up the ans'r & send to me—perhaps I may be able to get it. Remember me to all, and particularly to y'r mother and [illegible].

Y's effect'ly,

LEVEN POWELL.

FROM THOMAS J. PAGE TO COL. LEVEN POWELL ON PRESIDENTIAL ELECTION.

Dear Sir,—I rec'd your letter of the 15th of January, wherein you request that I should endeavor to ascertain the sentiments of our county respecting the approaching Election for President. I have seen many of them and declared your wish for information on the subject, and I find they all prefer Mr. Jefferson to Mr. Burr, except a few who think as you do, that if Jefferson is at the head of the party who style themselves Republicans, that not the smallest Vestige of our Navy will remain. They are also afraid that he will be deficient in firmness, and perhaps that he may be dictated to by some violent men whom he may have to consult with. Our alternative, I must confess, is dreadful under the circumstances which you have stated—for if Jefferson is to destroy & do away the support of our commercial intercourse, we ought all to say that he is not a proper man; & as to Burr, his character is so suspicious that I find you doubt that Respec-

tability which ought to be attached to a President of the United States, for certainly he ought to be a respectable as well as an independent character—and as he appears in this light, I must say that he is not a proper character. What will be the event of this business I can't foresee, being so far Removed from the seat of information, but hope that the acts of you all may be such as to give peace to the Union and prosperity to all who are connected with us.

I am, Sir, Respectfully, yr. mo. obt. servt.,

THOMAS J. PAGE.

Feb. 5, 1801.

FROM THO. SIMS TO COL. LEVEN POWELL ON PRESIDENTIAL
ELECTION.

Dr. Sir,—Your favor was duly received, in answer to which as far as it refers to the election between Mr. Jefferson & Mr. Burr, I can only observe that your Vote upon the subject will give myself & all others I have consulted perfect satisfaction. The situation in which you are placed renders you perfectly competent to a just decision & and we are fully satisfied that you will be actuated by what you consider the interests of the community. I very much wish, should you have an opportunity, that you will procure a copy of the report of the Committee of Congress at their last session relative to the state of our revenue and public debt and forward it to me. Every possible engine will be put into operation to effect your election next Spring—and as detraction & defamation are generally resorted to to promote Views injurious to you, I am desirous to be prepared, as far as I am able, to counteract them. For myself, as far as I have enquired, I am induced to conclude that no material change has taken place here in the Sentiments of the people in general & I entertain very Sanguine hopes for an undoubted Success in the contest. However I Shall be better able to give you more information on the Subject after our

court & then I shall do myself the pleasure to write to you. In the meantime & in great haste I am, Dr Sir,

Very Respectfully, Yr. Mt. Ob. St.,

THO. SIMS.

Leesbg., Feb. 6th, 1801.

FROM WM. B. HARRISON TO COL. LEVEN POWELL ON PRESIDENTIAL ELECTION.

SOLDIERS' REPOSE, Feby. 11, 1801.

Dr. Sir,—I have had the Pleasure to Receive yours of Jany. 10th, and wish it was in my Power to Convey to you an opinion of mine & my Neighbours that would be an Addition to yours in Voting agreeable to the wishes of the People of the district, & relieve you from the Burthen of Anxiety to serve your Country best.

On Receiving yours Agreeable to your Request I set out amongst the most Respectable People in my neighborhood to gain the Opinion of them, & found but few, very few, that know anything about Either of the men, and those that do have formed no opinion & wish you to Vote as you think best.

I was up at Leesburg court to try the wishes of the People on the Subject, where I met 3 or 4 of the Mr. Lees & Mr. Lion, &c., whom I learned to be Nearly of my opinion—which is as we are compel'd to Vote for a man of Contrary Policy to our own, one from New York, the other from Virginia, the Virginian the most Experienced, oldest officer, Purest carracter and morals Eaqual, & I have not a doubt but our little Navey will Bear the Same fate under the Admin. of one as the other, I therefore would Vote for Mr. Jefferson—but woud. not wish my Opinion to Clash with your own. You are a better Judge than I am if we were on the same advantage of information. Colo. Thos. Lee differs from me in Sentiment & thinks it will Blast your Political carracter for Ever to Vote for Jefferson at all, and that he Cannot advise what to do, but woud. Observe the Same line

of Conduct as your Colleagues of the Same Policy. I have not a doubt but you will Vote for the best, Vote as you will.

When I used all my Efforts to have you Elected my Confidence was in you—it has not from Experience Diminished but increas'd, & Let you Vote as you will it shall stand approbated & Justified with me.

I am, Sir, with great Respect,
Your friend & Ser'nt,

WM. B. HARRISON.

N. B. In your Last to me you Observe the french Treaty is Still before the senate & its fate uncertain. I hope it will Remain in that Situation unless it can be Past with Amendments Such as will do honor to our government & People.

Be Pleased to give my best Respects to Genl. Lee and Majr. Egleston.

WM. B. H.

FROM THO. SIMS TO COL. LEVEN POWELL ON PRESIDENTIAL ELECTION.

LEESBURG, Feby. 20, 1801.

Dear Sir,—We are all in extreme anxiety here relative to the final issue of the question of president in your house. For my own part the more I reflect on the business the more I enquire into the characters of the candidates, & especially since I have seen the dangerous doctrine said to be advanced by Jefferson in a letter to his Berkley correspondent, & I presume it is accurate, as it has not been contradicted, I am induced decidedly to give the preference to Mr. Burr. From everything that has transpired to make the political character of Jefferson, it is clearly evidenced to me that he has uniformly given the tone of opinion to the opposition, besides he being the favorite with them he must of necessity stand more committed to their Views and less probable to be governed by generous principles than Mr. Burr. If the present division in the house should not meet, & no choice be made, I fear we shall stand in an awful situation

indeed—but we must hope for the best, & be prepared to meet any event. I hear many exertions are making here by your opponents to prejudice the minds of the people against your election—your Votes for the Mausoleum & a continuance of the Sedition Law are the principle objections started. Can you believe it, but it is really true, that the old & often refuted Story of your predilection for Monarchy is again revived.

I conversed generally (on Monday last) with my acquaintance from different parts of the County, and can assure you that no material change in the Sentiments of the people here Since our triumphant success in 99 is to be discovered. If every part of the district is as Federal as ours, your Success does not admit of a doubt in my opinion, or the opinion of most of your Friends that I have consulted.

Waltman called on me to enquire if certain charges he had heard alledg'd ag't you could be true. I took Some pains to expose their absurdity, and he confessed his astonishment that he could for a moment be so worked upon, & observed that notwithstanding all their lies, you would not loose a Vote in the Dutch Settlem't.

Nothing is wanting on the part of the Federalists but a little [illegible] to enable them to counteract most of the slanders of the opposite party. Honest, well-thinking men, however limited in general subjects may be their understanding, commonly possess discernment enough to distinguish between truth & falsehood. I never was so clearly convinced of the truth of this position as on the first day of Our last Court. We have three Federal Candidates* for the State Legislature. I do not regret this circumstance—no division of Interest with them can possibly produce an anti-federal representation, & it will be the means of bringing more people to the poles.

With Sentiments of great respect,

I am, Dr. Sir, Yr. Ob. St.,

THO. SIMS.

* Lewis, Noland & Lane.

FROM COL. FRANCIS PEYTON TO COL. LEVEN POWELL ON
PRESIDENTIAL ELECTION.

LOUDOUN, Feb'y 20th, 1801.

Dear Sir,—I received yours of the 14th inst., likewise those address'd to me at Richmond, and Acknowledge the favor, and the cause of my not answering them in due time was owing to a hurt I received in one of my fingers, soon after I got to that place, which prevented me from Writing even to my family during my stay there, which I hope is a Suff't apology. With respect to Mr. Mason I am at a loss what to say, but expect to be down myself towards the latter end of March and endeavor to have it fixed somehow or other. The matter stands thus: my Tobacco was Sold on a credit of 60 or 90 Days when there was no depreciation, but he pretends to say at the time of payment it had depreciated more than one half the real Value. Soon after I got the Amt. of Sales I apply'd to him in George Town for payment, when he observed to me that the money was payable in France, and at that time it [was] difficult if not impossible to negotiate it owing to the existing troubles, and also mentioned the depreciation, but observed at the same time he would endorse any Bills I might draw whenever I thought proper and receive the money as it should be passing at the time it was presented, on condition of not being liable for any Interest on the sum. Agreeable to this promise I let the matter rest until the depreciation on their money ceased, but these promises I make no doubt he will Deny, and my having confidence in his word at that time I have no evidence to prove it, so that I cannot avail myself of them. When I gave the papers to Mr. Thompson to settle with him and demand the money and on failure of payment to order suit against him, on application Mr. Mason stated his Amt. agreeable to what he said was the depreciation, and observed he was willing to pay it, which was refused. Some time after which Mr. T. informed me of the proposals, and as I did not wish to have any disputes about it, and thinking in some measure it might

be right, I agreed to settle it on his own statement with paying interest while he had the money in his own hands, which I thought no just man could possibly refuse, but so it is he objected to that proposal, and so the matter stands.

I feel great Anxiety with respect to the choice of a P. The violent Dems. are determined to shoulder their musketts in case Jefferson or Burr is not elected, tho' in fact I think many of that party really wish it for the sake of confusion, and nothing could suit their purpose better ; therefore I sincerely hope for the sake of peace & Tranquility their views may be frustrated in fixing Jefferson in the chair. Your family and Friends are all well and I am,

Dr. Sir, Your Mo. Ob. Servt.,

FRANCIS PEYTON.



THE JOHN P. BRANCH
HISTORICAL PAPERS,
OF
RANDOLPH-MACON COLLEGE.

JUNE, 1902.

PREFACE.

The second number of the Branch Historical Papers is now published with the same end in view as the first: namely, to stimulate and encourage the study and writing of history in Randolph-Macon College. This being our purpose, it is hoped that allowance will be made for some of the shortcomings of the papers which may be presented. It was only last year that regular work in history was begun here, and having no wish to go beyond the limits of a high-grade college, our work consists in bringing the student simply to the point where higher and independent research begins. The plan then is to reward the best efforts of undergraduates with publication, and to encourage young men of Virginia to enter the almost unexplored field of their State's history. To advance this kind of work, the Bennett History Medal is awarded each year to the author of the best paper written by any student in the Department of History. Rev. James Cannon, President of the Blackstone Institute, is the founder of this prize. The successful paper is assigned the place of honor annually in the Branch Papers.

Since Virginia biography has been so sadly neglected, it has been decided to limit the Branch Papers hereafter to that field.

The papers submitted so far for the prize this year deal with John Lewis, of Augusta county; Abel P. Upshur and Thomas Ritchie. Unusual attention has been given these subjects and much hitherto unpublished data concerning them will be brought to light. At least two, perhaps all, of these short biographies will be published in the next number of the Papers. It is hoped that these studies may prove to be of real service to students of American history and to deserve a place in our best libraries. Short and accurate sketches of the lives of Virginia statesmen and politicians of the second rank will thus be brought into permanent accessible form. So much for the student's work.

The editor of the Papers desires to publish year by year the more valuable letters and documents which come to his knowledge in connection with the prize papers, or in any other way. Much valuable material is going to ruin every year in Virginia for the lack of proper attention. In the garret of an old Colonial court-house which the writer visited in the course of last summer, he found six large boxes of historical papers—letters, wills, deeds, reports of law cases, &c., dating back as far as 1680. The mice had long had their nests among these papers! No officer of the court was responsible for the safe-keeping of these records, for such they were, and the County Clerk was astonished that he should be asked so minutely about such worthless stuff! What has been said of this particular court-house might also be said of many an old manor in Virginia. Many other States have appointed commissions for the collection and preservation of such data. Of course, it cannot be hoped that our people may be brought in a short time to look differently upon these things; but by continuous effort on the part of college teachers, and of students who come in touch with such teachers, it is hoped gradually to bring about this change. With this end in view, and also to give to the world in modest form the results of our searches, half of the space in the Branch Papers will be devoted to publishing documents.

Last year a small portion of the Leven Powell manuscripts was published; a few of these had seen the light in a small

pamphlet printed in 1872 for family circulation. This year the whole collection has been placed at my disposal and about half of it has been printed. Several important letters will be found in the collection—one from Washington, which shows, if nothing more important, that Leven Powell was a man whose friendship Washington acknowledged. In fact, Washington rode twelve miles in 1799 to cast his last vote for his friend, Colonel Powell, as his representative in Congress.

The letters published this year fall between years 1775 and 1787, and bear upon the Revolutionary war and the settlement of Kentucky and its separation from Virginia. The next and last instalment, reserved for a later issue, covers the period of 1788 to 1806. In addition, a group of letters bearing on the war of 1812 is given; another on the events of 1830, principally by Thomas Ritchie, the greatest of Virginia's editors.

For these letters I am indebted to Miss Rebecca C. Powell, of Alexandria, Virginia, a descendant of Colonel Leven Powell; to Judge A. B. Hagner, of Washington, D. C.; Judge Brockenbrough, of Tappahannock, Va.; to Mrs. Walter K. Martin and to Thomas Christian, Esq., of Richmond, Virginia. To all of these I take this means of expressing my hearty thanks.

WILLIAM E. DODD.

THE WHISKEY INSURRECTION IN PENNSYLVANIA AND THE OPINIONS OF CONTEMPORARY PARTY LEADERS CONCERNING ITS SUPPRESSION.*

BY B. W. BOND, JR., A. M.

SOON after the adoption of the Constitution, different views arose in regard to the powers it really conferred upon the Central Government. One side insisted that it should receive only the strictest interpretation, while the other claimed that a very liberal construction was permitted. These opposite opinions, ably championed by Jefferson and by Hamilton, respectively, gave rise to the bitter feeling between them, culminating in the resignation of both from the Cabinet. But most important of all, the foundation was laid for the great contending principles held by subsequent statesmen, which afterwards brought on the great war between the States. As one of the earliest struggles bringing into view the distinct separation between the champions of State's rights and those of a strongly centralized government, the rising against the excise tax in Western Pennsylvania, commonly known as the Whiskey Rebellion, is a very important incident.

Hamilton's financial policy, of which the excise tax was a very important part, was the chief cause of Jefferson's antagonism. In a letter to the President, the latter says: "I confess to have disagreed from the financial plans of Hamilton, because his system flowed from principles adverse to liberty, and was calculated to undermine and demolish the Republic by creating an influence of his (Hamilton's) department over the members of the Legislature."¹ Again, when Washington, in the course of

*The author of this paper was awarded the medal in the Bennett prize contest for 1901.

¹Works of Thos. Jefferson, Ford, V., page 103.

a private conversation, upheld the excise bill as the best measure of the kind that could be brought forward, Jefferson replied that he was himself opposed to the assumption of the State debts by the National Government, as a policy which had made such a tax necessary. He felt that it was best for each State to pay its own debt by the tax most agreeable to the people.² But during the insurrection he expressed still more strongly his radical views in regard to the concentration of power in the Central government. At the same time it became very evident that even in Virginia his opinions on this subject were not by any means universally supported.

In 1791 a revenue bill was passed through the influence of Hamilton putting a tax on the distillation of spirituous liquors. This bill was very much opposed by many of the congressmen from the districts which would be directly affected, and the legislatures of Virginia, North Carolina, and Pennsylvania all passed resolutions against its passage.³ In 1792 the law was amended in order to make it, if possible, more acceptable to the people. But during the debates on the amendment, much opposition to an excise was again shown, chiefly by Southern members, while most of the Northern men favored it. Josiah Parker, of Virginia, even went so far as to say it was hostile to the liberties of the people, and especially dangerous in giving revenue officers the power to search dwellings in which liquor that had not paid the tax was supposed to be stored.⁴

August 21, 1792, the people of the four Western counties held a convention at Pittsburg, at which it was resolved to use all legal means to resist the tax. Hamilton denounced the meeting as treasonable, and wished to indict all those taking part in the proceedings;⁵ while Washington declared that if the people went

²Life of Thos. Jefferson, Tucker, Vol. I., page 436.

³Hildreth's History of the United States, Vol. IV., page 253.

⁴Benton's Abridgments of the Debates of Congress, Vol. I., pages 262-'67.

⁵Works of Alexander Hamilton, Lodge, Vol. V., page 476.

so far as to deliberately trample upon the laws, he would go to the full lengths of the powers given him by the Constitution.⁶ But Jefferson wished to avoid a conflict with the Secretary of the Treasury, and so, while signing the proclamation issued at Hamilton's instigation,⁷ added that he was sorry to learn that such action was necessary, and that he trusted the people would be led into a petition for the amendment of the law, or else into a conviction that it was right.⁸ Happily, just at this time, the trouble did not become so serious as to demand the use of force, although in his speech before Congress, November, 1792, Washington, in alluding to the discontent against the excise tax, declared that the laws would be strictly enforced, and that all those attempting to obstruct their operations would be duly punished.⁹

But during the summer of 1794, the opposition to the tax, which had been smouldering in the mean time, with only occasional outbursts, broke forth into open riot. During an attack upon the Inspector's house, there was some bloodshed, and the buildings were burned to the ground. So universal had the sentiment against this method of taxation become that it was even deemed impolitic to attempt to raise a posse for the protection of the revenue officers.¹⁰ Meetings were held at which resolutions of an inflammatory nature were passed; the United States mails were interfered with, and a mob marched on Pittsburg, though it did little, if any, damage. Several citizens, however, who had made themselves especially obnoxious to the mob, were summarily expelled by their fellow-townsmen. Urged on by Hamilton, Washington issued a proclamation calling upon the insurgents to disperse.¹ He also appointed commissioners, who met other commissioners sent by a meeting of the disaffected, at which

⁶Works of Washington, Sparks, Vol. X., page 292.

⁷Works of Washington, Sparks, Vol. X., page 529.

⁸Works of Jefferson, Ford, Vol. VI., page 113.

⁹American State Papers, Vol. I., page 35.

¹⁰Brackenbridge's Western Insurrection.

¹Works of Alexander Hamilton, Lodge V., page 519.

Albert Gallatin, aided by the more sober men of the community, had been able to subdue, in a measure, the more turbulent spirits.² In accordance with the agreement of the commissioners, the inhabitants of the disaffected regions were given an opportunity to sign their names to a paper binding them to abide by the laws of the country. But the signatures were not nearly so general as had been hoped for. In one township the declarations of submission were torn to pieces, even before any signatures were obtained, while at Ohio-Town, resolutions condemning the excise tax were passed.³ The President's commissioners were attacked at one place and compelled to spend the night in arms; so sour and malignant an attitude was shown that it seemed necessary to send the militia to the scene of disorder.⁴

In writing of the insurrection to Madison, Jefferson asserted that the inhabitants of the Western counties had not been more than riotous, and that there had been merely a consultation on separation, though this did not imply action in that direction. Also, he added that, "The excise law is an infernal one. The first error was to admit it into the Constitution, the second to act on that admission; the third, and last, will be to make it the instrument of dismembering the Union."⁵ Besides, Jefferson denied that the President had the power to issue a call for troops, when Congress was not in session, even though they were needed to quell a riot, which had gone beyond the control of the State in which it first arose.⁶

On the other hand, Hamilton wished to send the militia at the very first, and, in a letter to the President August 2, 1794, he declared that, "The opposition has been continued and matured until it has, at length, broken out in acts, which are presumed to amount to treason." In regard to sending the militia,

²Albert Gallatin, Adams, pages 131-'35.

³J. C. Hamilton's Republic, Vol. VI., page 98.

⁴Wharton's State Trials, pages 140-'41.

⁵Works of Jefferson, Ford, Vol. VI., page 517.

⁶Works of Jefferson, Ford, Vol. VI., page 518.

he continues: "It appears to me that the very existence of government demands this course, and that a duty of the highest nature urges the Chief Magistrate to pursue it. The Constitution and laws of the United States contemplate and provide for it."⁹ In the Tulley letters, published in the *Philadelphia Advertiser*, he even maintained that opposition to the excise tax, and also to the use of force in compelling submission to the laws, was indicative of a bad citizen, and, furthermore, that "the question is, Shall the majority govern, or be governed? Shall the nation rule, or be ruled? Shall the general will prevail, or the will of a faction? Shall there be government or no government?"¹⁰

But it was with the greatest reluctance that Washington ordered the troops to go forward, and then only when convinced by Hamilton that it was his last expedient. This wish, to conciliate, if possible, by peaceable means, was very forcibly brought out in his speech opening Congress, November 19, 1794,¹ which sought to justify the official conduct of this affair, and which was attacked with such bitter criticism. Yet when the commissioners returned with such an unfavorable report, he felt that it was necessary to send the militia into the riotous districts.² Perhaps the President's view of the situation cannot be more strongly expressed than in these trenchant words, when, in speaking of the disturbance, he says: "But if the laws are to be trampled on, and a minority—a small one, too—is to dictate to the majority, then there is an end put, at one stroke, to republican government, and nothing but anarchy and confusion are to be expected hereafter."³

As author of the bill, Hamilton was undoubtedly determined to have the excise tax enforced. In addition, all those who had suffered from the ill-will of the rioters magnified the affair to him

⁹Works of Hamilton, J. C. Hamilton, Vol. IV., page 575.

¹⁰Works of Hamilton, J. C. Hamilton, Vol. VII., pages 161-'68.

¹American State Papers, Vol. II., pages 82-83.

²Works of Washington, Sparks, Vol. X., pages 429-'30.

³Works of Washington, Sparks, Vol. X., pages 462-'3.

as much as possible, and so added fuel to his already ardent desire to have the law enforced by the presence of the militia. Major Craig, one of the citizens expelled from Pittsburg at the demand of the insurgents, wrote that the weight of the Executive armament must be felt in the Western country before any law of the United States could be enforced.⁴ Again, the same writer, in a letter written September 26, 1794, asserted that the representations of interested persons should not be believed, for the country was by no means subdued, and that many who had signed the oath declared immediately afterwards that no excise officer should ever exist in the Western country.⁵

Reports of the erection of liberty poles throughout the disturbed region were constantly being brought in. In the first part of September, a number of persons were about to raise one near Martinsburg, Va., when they were dispersed by the approach of the militia,⁶ while even at Middletown, Md., similar attempts were made, though they, too, ended in failure.⁷

Added to all these reports as to the riotous state of the Western country came disquieting rumors that the insurgents were not only aiming at mere opposition to the enforcement of the excise laws, but even at complete independence, and that the three Western counties of Virginia would join them. A letter from Morgantown, Va., said that those in that county who favored peace were so terrorized by the opposing element that they were not at liberty to express themselves.⁸ It was actually proposed to found a new government with either Judge Brackenbridge or David Bradford as Governor. But the former, a leader among those counselling submission, would listen to no such scheme.⁹ Yet in a letter written August 8th, he gave it as his belief that

⁴Brackenbridge's Vindication.

⁵J. C. Hamilton's Republic, Vol. VI., page 102.

⁶*Baltimore Daily Intelligencer*, September 16, 1794.

⁷*Baltimore Daily Intelligencer*, September 20, 1794.

⁸*Baltimore Daily Intelligencer*, September 12, 1794.

⁹Brackenbridge's Vindication.

the Virginia counties would join the rising, and that "If the government does not hear the commissioners, but sends an armed force, there will be very serious trouble. Above all, in that event, a new government would be organized for self-defense."¹⁰ Indeed, after the disturbance had quieted down, Jefferson declared that the people of Western Pennsylvania were merely biding their time in order to separate and to form an independent government.¹

In addition to these rumors of a new republic, it was generally believed that the insurgents were being aided by the British. M. D. Conway, in his "Life of Edmund Randolph," claims that John Jay was officially informed that General Wayne expected to meet British soldiers among the Pittsburg rioters.² In his private dispatches, Fouchet, the French Minister, declared that Randolph believed England was fomenting trouble in the West, while Randolph,³ in a letter to Washington, alluded to the rumors that England was helping the insurgents.⁴

A letter, written from the camp near Washington, Pa., showed that these fears of a rebellion, aided by the British, were not altogether unfounded. It contained the information that the insurrection had been contemplated for three years, as seen by letters found in Bradford's house, and that the plotters had intended to put themselves under the protection of Great Britain, after overthrowing the power of the National Government west of the Alleghanies.⁵

Yet, in spite of all these rumors of more serious trouble, the President, chiefly influenced by Edmund Randolph, Secretary of State, refused to call out the militia until he had sent commissioners empowered to treat with the people. Just at this time,

¹⁰Brackenbridge's Vindication.

¹Works of Jefferson, Ford, Vol. VI., page 518.

²Edmund Randolph, Conway, page 243.

³Edmund Randolph, Conway, pages 320-'21.

⁴Wharton's State Trials, pages 157-'58.

⁵*Federal Intelligencer and Baltimore Daily Gazette*, November 24, 1794.

the anti-Spanish and disunionist riots were disturbing Kentucky, while the risings of the Indians in the Northwest, actually fomented by the Governor of Canada, had not been completely subdued. The astute Secretary of State feared that these forces might be combined in a general war if an open rebellion should break out in Pennsylvania, and so he induced the President to use every possible means of pacification.⁶ Fouchet, the French Minister, accused Randolph of trying to get money from him in order to bribe some leading men to take the side of the government.⁷ Afterwards, he absolved the Secretary of State from having any personal interest in the matter.⁸

However, when the commissioners returned with an unfavorable report, Randolph could do no more. Washington now listened to the representations of Hamilton, as was, perhaps, natural, under the circumstances, and decided to forward the militia at once to the scene of trouble.

Accordingly, in spite of constant assurances from the inhabitants that the Western country was being rapidly pacified, Washington summoned 15,000 militia from the States of Pennsylvania, New Jersey, Maryland, and Virginia. He himself accompanied them as far as Fort Cumberland, and then left the further command of the expedition to Governor Lee, of Virginia. Hamilton, who had, at his own request, been granted permission to go, accompanied the troops to the scene of the disturbance.⁵

Although the troops made the painful journey across the Alleghanies only to find the country perfectly peaceful and anxious to make all due submission, hundreds of the more prominent men were arrested November 13th, among them being several citizens who, throughout the course of the revolt, had used their influence to preserve peace. David Bradford, the prime mover

⁶Edmund Randolph, Conway, page 227.

⁷Hildreth's History of the United States, Vol. IV., page 516.

⁸Edmund Randolph, Conway, pages 320-'21.

⁵Works of Alexander Hamilton, J. C. Hamilton, Vol. V., page 30.

in the riots, escaped by way of the Ohio river. Most of the prisoners were released in a short time, while Washington, having resolved to be as lenient as possible toward all offenders in this insurrection, subsequently pardoned the few who were convicted. A detachment of troops, under the command of General Wayne, was left in the disaffected region throughout the winter, but no further trouble occurred.⁶

Nor can it be denied that Hamilton had excellent grounds for his apprehensions. The wild nature of some, at least, of the Western people had been shown in the inhuman treatment accorded the Muskingum Indians.⁹ Judge Patterson, in his charge to the grand jury, at the trial of the rioters in Philadelphia, declared that the object of the insurrection having been to prevent the execution of an act of Congress, it was high treason.¹⁰ Fisher Ames, a prominent Massachusetts Congressman, wrote that in such a government as ours the danger is real as soon as dreaded, for the first murmurs of sedition excite doubts of the approbation of the majority.¹ Chief Justice Marshall, in writing of the insurrection some time after, said that to the government was given the alternative of subduing, or else of submitting to the resistance to the excise law, which had lasted for three years.²

The government was upheld in its course by many of the most prominent citizens in the country. In delivering the charge to the grand jury at Petersburg, Va., the Judge, speaking of the insurrection, affirmed that it was high treason against the common law for any combination of people to declare that they would not submit to any particular law. The jury, in reply, censured the insurrection, and pledged themselves to do all in their power to crush such attempts.³ Judge Rush also, in his charge to the

⁶Shoulder's History of the United States, Vol. I., page 295.

⁹Penn. Historical Society Memoirs, T. Ward, Vol. VI., page 144.

¹⁰Wharton's State Trials, page 578.

¹Gibbs' Washington and Adams, Vol. I., page 154.

²Life of Washington, John Marshall, Vol. V., page 580.

³Baltimore Daily Intelligencer, October 2, 1794.

grand jury of Berks county, Penn., condemned the riot in very emphatic terms,⁴ while a prominent Baltimore paper declared in an editorial that "however divided respecting the utility of an excise law, all unite in reprobating measures (alluding to the riots) which strike at the very roots of society."⁵

But most important of all, as giving the sentiments of the representative people of Virginia, the very State in which Jefferson lived and wrote his denunciations, were the resolutions unanimously adopted by the House of Delegates, November 12, 1794, commending the spirit, alacrity, and promptitude of the militia of the constituted authorities of the United States, presenting a bright example of patriotism, and one which ought to be held in affectionate remembrance.⁶

In addition to these significant resolutions, many public men in Virginia strongly commended Hamilton's course. Edward Carrington, a confidential friend of Washington, a member of the Continental Congress, and a man of great influence in the State,⁷ wrote that Virginia would comply with alacrity to the requisition of the President, and that the people would uphold the government in this crisis.⁸ Again, writing December 10, 1794, he insinuated that Jefferson and his party had tried to prejudice the people against the government.⁹ Governor Lee made the same covert attack, in a letter to Washington, and added that the government could count on the zeal and determination of the great mass of people.¹⁰

Although the government met with such strong support, Jefferson was by no means alone in his wholesale denunciations of the excise law, and also of the steps taken to suppress the insur-

⁴*Virginia Gazette*, September 11, 1794.

⁵*Maryland Journal and Baltimore Advertiser*, August 22, 1794.

⁶*Virginia Gazette*, November 17, 1794.

⁷*National Cyclopedia of Am. Biography*, Vol. V., page 154.

⁸*Works of Hamilton*, J. C. Hamilton, Vol. V., page 606.

⁹*Works of Hamilton*, J. C. Hamilton, Vol. V., page 614.

¹⁰*Works of Washington*, Vol. X., page 561.

rection. Nor was the administration altogether indifferent to his attitude, for August 28, 1794, Washington offered him a mission to Madrid, hoping, by this means, to quiet, for a time, the great fomentor of opposition to his policy. Needless to say, the offer was promptly declined,¹¹ and Jefferson continued to pass his vehement criticisms. He claimed that the militia universally reported that they were objects of laughter, not fear, when they went to suppress the "pretended" insurrection, and that 1,000 men might easily have cut off their forces in the Alleghanies.¹

Nor was Jefferson unsupported in his contention that it had not been necessary to forward the troops. A letter from Pittsburgh reported that the most respectable people were engaged in the opposition, and that violent measures on the part of the government would lead to much needless trouble.² Brackenbridge, in his *Vindication*, maintained that the people could have successfully resisted the troops in the narrow passes, and that the country was almost pacified when the army arrived,³ while Findlay states that the Inspector drew many into the riots by firing upon the party, which attacked his house, but that few others joined them afterward, and that they themselves gradually fell out of the mob.⁴ The inhabitants of Morgantown, in Western Virginia, organized in order to defend themselves against the encroachments of the insurgents.⁵

In spite of all these signs that the trouble would soon be over, the President declined to stop the advance of the troops, even when the prominent people of the Western counties sent commissioners to Carlisle to inform him of the peaceful state of affairs.⁶ The season was very far advanced, and now that the

¹¹J. C. Hamilton's Republic, Vol. VI., page 84.

¹Works of Jefferson, Vol. VI., pages 518-'19.

²*Baltimore Daily Intelligencer*, August 26, 1794.

³Brackenbridge's *Vindication*.

⁴Findlay's History.

⁵*Baltimore Daily Intelligencer*, September 5, 1794.

⁶Brackenbridge's *Vindication*.

militia were assembled, he was determined to take no further risks. Besides this, the comparatively few signatures to the oath had greatly prejudiced him against any statements that the opposition had subsided. But in this respect, he was probably too much under the influence of Hamilton to listen to the representations of those who would condone the few signatures. There had been many objections to the wording of the oath, and then, it must be remembered, that only a proportionately small number of the inhabitants had taken part in the riots; many peaceable citizens who had not, in the least degree, violated the laws, positively refused to sign the oath, from a conviction that, by doing so, they would practically acknowledge themselves guilty of riotous actions in which they had not participated. Again, six days was entirely too short a time to allow for the proper distribution of the papers.⁷ So that, on the whole, it must be acknowledged that the really riotous state of the country was hardly serious enough to justify Washington in sending the militia, in spite of the commissioners' report.

Governor Mifflin, of Pennsylvania, before the Legislature of the State, favored conciliation, rather than coercion,⁸ and, in a letter to the President, he very strongly opposed calling out the militia, except in an emergency.⁹ Hamilton, however, hinted that Mifflin was himself in sympathy with the insurgents.¹⁰ But when the militia were actually summoned, the Governor exerted himself to raise the necessary force. Afterwards, he told Governor Lee that the insurrection was really more formidable than it had appeared to be, and that if the government had not anticipated it, a general explosion would have followed.¹¹

Albert Gallatin, who had had a very large share in subduing the rebellious spirit, and in bringing peace to the riotous coun-

⁷Brackenbridge's Vindication.

⁸*Baltimore Daily Intelligencer*, September 20, 1794.

⁹Wharton's State Trials, page 143.

¹⁰Works of Hamilton, Lodge, Vol. VI., pages 1-17.

¹¹Works of Hamilton, J. C. Hamilton, Vol. VII., page 719.

ties, wrote to Governor Mifflin, September 17, 1794, that the passage from open resistance to perfect tranquillity would have to be made moderately; the great body of the people were afraid to come out openly for peace, at first, but he felt sure that the general disposition was to submit. He added that many had signed the oath, and that associations had been recommended for preserving the peace and for upholding the public authority, but that it would be some time before a perfect submission to the laws would be made, though the peaceful sentiment was growing very fast. Military coercion would be attended with great danger, and would only make the people bitter and severe.²

Although the presence of the militia was not absolutely necessary to quiet the riots, Jefferson can hardly be upheld in his claim that the President had no right to call out the troops. The Constitution authorized Congress to provide for calling forth the militia to execute the laws of the Union, to suppress insurrections, and to repel invasions.³ Story claims in his Commentaries that if the militia could not be called out in this way, regard for the common safety would make a large standing army absolutely necessary, so that the power of Congress over the militia is highly desirable.⁴ Moreover, by a bill passed April 26, 1792, the President was authorized to call forth the militia to repress insurrections and to repel invasions, on the representations of an Associate Justice or of a District Judge.⁵ As Washington complied with this condition, he had a perfectly legal right to summon the militia, and Jefferson's claim necessarily falls. February 28, 1795, another act was passed by which the power of calling forth the militia was expressly vested in the President, and in 1827 the Supreme Court finally decided this much-debated question as to the power of summoning the militia, affirming that the President himself should decide when the exigency had arisen

²Works of Albert Gallatin, Adams, Vol. I., pages 9-12.

³Constitution of the United States, Sec. 8, Par. 15.

⁴Story's Commentaries, Vol. II., page 112.

⁵Annals of Congress, Second Congress, pages 179-93.

in which he had authority, under the Constitution, to call forth the militia, and that his decision was conclusive, and binding upon all other persons.⁶

Jefferson and his followers, however, reserved their bitterest denunciations for the attempt of the government to fix the odium of the insurrection upon the Democratic Societies. Washington gave his opinion as to the cause of the riots in the following very significant words: "That they (the Democratic Societies) have been the fomenters of the Western disturbances admits of no doubt in the mind of any one who will examine their conduct; but, fortunately, they have precipitated a crisis for which they were not prepared, and thereby have unfolded views which will, I trust, effectuate their annihilation sooner than it might otherwise have occurred."⁷ In his speech before Congress in regard to the insurrection, he made a covert allusion to the Democratic Societies as the cause of the struggle, and advocated their suppression.⁸ The Senate passed a resolution of denunciation, but in the House, after a long debate in which many of the Southern members bitterly opposed the resolution as being contrary to the right of free speech, since the Democratic Societies were not illegal institutions, the motion was lost.⁹ Chief Justice Marshall also asserted that the insurgents were influenced by the publications of the Democratic Societies, and that they relied on obtaining their help.¹⁰

Alluding to this attempt of the administration to crush the Democratic Societies, Jefferson says, in a letter to W. B. Giles: "The attempt which has been made to restrain the liberty of our citizens meeting together, interchanging what sentiments they please, and stating their sentiments in the public papers, has come

⁶Kent's Commentaries, Vol. I., pages 288-'89.

⁷Works of Washington, Sparks, Vol. X., page 427.

⁸American State Papers, Vol. II., page 81.

⁹Benton's Abridgments of the Debates of Congress, Vol. I., pages 532-'47.

¹⁰Life of Washington, Jno. Marshall, Vol. V., page 585.

upon us a full century earlier than I expected," and then adds: "Make friends of the Trans-Alleghanians. They are gone if you do not. Do not let false pride make a 'tea act' of your excise law."¹ In a letter to Madison, he expresses his surprise that "the President should have allowed himself to be the organ of such an attack on the freedom of discussion, the freedom of writing, printing, and publishing," and asserts that the attack on the Democratic Societies "is an extraordinary act of boldness of the fraction of the monocrats," and that it has met with general condemnation.²

Madison declared in plain terms that Washington had been influenced by Hamilton throughout the whole proceedings relative to the insurrection.³ He himself had been connected by rumor with the Democratic Societies, though the President utterly refused to believe he had had any real affiliation with them.⁴ Although he did not openly disclaim this charge, Madison alleged that there was a plot to put upon the Democratic Societies the odium of the insurrection and to connect the Republicans in Congress with the societies, thus diminishing the popularity of the President by arraying him against both. In his judgment, the denunciation of the Democratic Societies involved two very dangerous principles: First, that arbitrary denunciation may punish what the law permits; and, second, that the government may stifle all censure of its own wrong-doing, for if it can suppress the censure of these societies, it can do the same with that of individuals, or of the press.⁵

Patrick Henry, now living in quiet retirement on his country estate, upheld Jefferson and Madison in their opposition to any attempt at suppressing the Democratic Societies. He wrote: "Although a Democrat myself, I do not like the late Democratic

¹Works of Thos. Jefferson, Ford, Vol. VI., pages 515-'16.

²Works of Thos. Jefferson, Ford, Vol. VI., pages 517-'19.

³Works of Madison, U. S. Gov't Collection, Vol. II., page 18.

⁴Works of Washington, Vol. X., page 443.

⁵Works of Madison, Vol. II., page 25, U. S. Gov't Collection.

Societies, as little do I like their suppression by law; the way to preserve in men's minds a value for them is to enact laws against them."⁶ That the societies had not overstepped the limits of the law seems to be shown by resolutions passed by the Democratic Society of Pennsylvania in the latter part of August, 1794, declaring that they would use every constitutional effort for the repeal of the excise tax, but that they would oppose any unconstitutional opposition.⁷ From these resolutions it seems probable that, in denouncing these societies as the cause of the riots, Washington had displayed too much prejudice. He could not show that they had overstepped the law, and so long as they did not incite to open rebellion they had a perfect right, under the Constitution, to criticise the actions of the administration; otherwise there could be no free government.

At the same time Washington's accusations made men pause and think of what might be the consequences if these avowed sowers of discord, copied after the vicious French model, should be allowed to proceed without check. Chief Justice Marshall maintained that so long as these societies existed "the public mind was continually agitated with apprehensions of a serious and powerful combination against liberty, which was to discover itself by the total overthrow of the republican system."⁸ These apprehensions cannot be said to have been altogether groundless, for had these clubs, organized expressly for criticism of the actions of the government, not been suppressed by the power of public opinion, the discontent they fomented might have created serious disturbances, which would have shaken the very foundations of the National Government.

Later developments showed that Jefferson, Madison, and Henry were all wrong in their surmises as to the serious effects of the President's denunciation of the Democratic Societies. Undoubtedly, their severe criticisms of the government, and the

⁶Life of Patrick Henry, Tyler, American Statesmen Series, page 354.

⁷Baltimore Daily Intelligencer, August 12, 1794.

⁸Life of Washington, Jno. Marshall, Vol. V., page 590.

fact that they had fostered troubles in Kentucky, had great weight in bringing the people of the Western country into open revolt. They felt that their course would find champions in these self-constituted critics of the actions of the government.

Still, the principle that the government should denounce perfectly legal organizations, merely because they had criticised its actions, was absolutely hostile to the liberty of the people, as Madison, the great expounder of the Constitution, had contended. It was a principle used as one of the most effective weapons of despotism. Jefferson, the apostle of free speech, saw this tendency; he saw to what a dangerous extent this measure might be employed by a man holding such decidedly aristocratic views as Hamilton, and it was well for the country that he sounded the note of warning in time and aroused the people to a sense of the danger, which awaited them, if the government was allowed to assume such arbitrary powers. But Jefferson even went to the extent of condoning insurrections, for, in writing of Shay's rebellion, he said that, since the people are the only censors of their governors, to punish their errors too severely would be to suppress the only safeguards of public liberty.⁹

The administration was also accused of trying to introduce absolute power, for, in the *Philadelphia Advertiser*, published by Benjamin Franklin Bache, a prominent man in the Revolution, and a son-in-law of Franklin, it was alleged that the government was trying to introduce the British system of finance, under the cloak of constitutional government. Moreover, the writer maintained that this system of indirect taxes, although universal in Europe, is wrong in its foundation, and aristocratical in principal, and, therefore, that he would call upon the Democratic Societies to stop all indirect taxation.¹⁰ That Hamilton really leaned toward an aristocratical form of government cannot be denied. In a conversation afterwards recorded by Jefferson, he claimed that

⁹Life of Thos. Jefferson, Tucker, Vol. I., page 254.

¹⁰Baltimore Daily Intelligencer, July 31, 1794.

the government, as then constituted, did not answer the ends of society, and that it would probably be found expedient to go to the British form.¹

Fouchet, in his private dispatches, asserted that the disturbances in Western Pennsylvania grew out of political hostility to Hamilton, and that Hamilton himself made the President believe that it was a blow against the Constitution and that (here he gave Randolph as his authority) Hamilton wished to introduce absolute power under the pretext of giving energy to the government. He added that Jefferson, who was honest and patriotic, had foreseen these crises, and so had retired.² Von Holst, declares that Hamilton's financial policy led to the organization of opposition to the government.³

Madison felt, no doubt, that Hamilton intended to use the riots merely as a pretext for furthering his pet scheme of a standing army to enforce the laws, but he was confident that the President would not embark in such a measure.⁴ In his speech before Congress, Washington, while giving a history of the insurrection, advocated the passage of a bill reorganizing the militia upon a firmer basis, so that whenever actual rebellion should occur they could be quickly called upon to enforce the laws.⁵ He also advocated the reimbursement of loyal citizens for losses due to the riots, and after much debate the measure was passed,⁶ thus establishing the important precedent that losses incurred by loyal citizens in times of rebellion should be paid by the government.

It cannot be proved that Hamilton's purpose was to found an absolutism, as claimed by Fouchet, but his known predilections

¹Life of Thos. Jefferson, Tucker, Vol. I., page 392.

²Hildreth's History of the United States, Vol. IV., page 516.

³Von Holst's Constitutional History of the United States, Vol I., page 951.

⁴Works of Madison, U. S. Gov't Collection, Vol. II., page 18.

⁵American State Papers, Vol. I., pages 85-86.

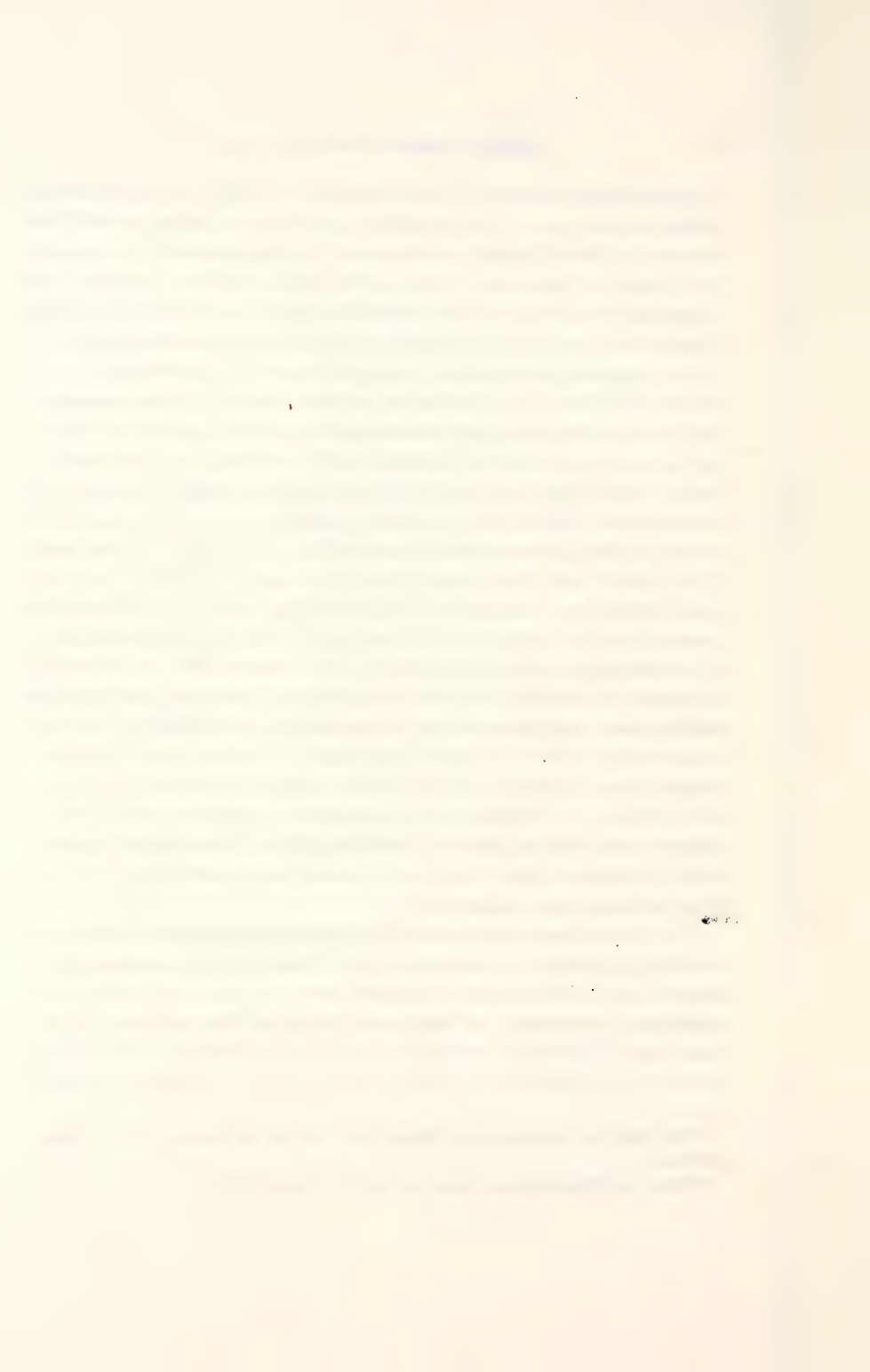
⁶Benton's Abridgments of the Debates of Congress, Vol. I., pages 546-'55.

for the British system of government is certainly an argument in favor of this view. He probably saw that in order to test the strength of the Central government, it was necessary to enforce the power of taxation. Then, after the excise tax had been so vigorously resisted, and the opposition had come to such alarming proportions, as in the summer of 1794, he was unwilling to trust to an apparent submission, and saw that the government must enforce the laws by a display of military force. If the resistance had been so vigorous and determined for such a number of years, he had no guarantee that it would not be revived, and the government, just at that time, could afford to take no risks. Besides, the insurrection offered an excellent pretext for showing the real power of the government in compelling obedience to the laws. This could not but strengthen the administration, for the anti-Federalists, headed by Jefferson, had tried to educate the people into the belief that an impotent General government was a condition precedent to liberty.⁷ The insurrection, as affording a pretext to unmask the iron hand of the Executive, and thus to make a long step forward in the process of centralization, was an opportunity not to be lightly cast aside. Indeed, the President himself was willing to take no risks, and declared that the ease with which the militia were summoned, together with their alacrity and spirits, showed that the infant State rested upon a solid foundation, and that the citizens were determined to see that the laws were observed.⁸

Yet it must be conceded that the fundamental cause of the riots was the opposition to the excise tax. The Western counties were situated at a considerable distance from the market, and it was absolutely necessary, at that time, to have the produce in the form least difficult to transport over the mountains. When the government asserted its power, however, the opposition melted

⁷Von Holst's *Constitutional History of the United States*, Vol. I., pages 102-'03.

⁸*Works of Washington*, Sparks, Vol. X., pages 47-51.



away; then, soon after, by the opening of the Ohio and Mississippi to free navigation, new markets were found and there was more money to pay the tax.

The policy of the administration in sending the troops to the disorderly counties was productive of much good, for, after this display of force, the people of a disaffected region would think twice before they dared try their power against the might of the Central government, and so, much trouble was averted. This action also furnished an important precedent, which was followed by President Lincoln at the beginning of the Civil War; and, again, by President Cleveland during the great Chicago strike.

Although Jefferson was not justified in protesting that the President had overstepped his power by sending the militia into the Western counties, he was fully sustained in his vehement protestations against the arbitrary denunciation of the Democratic Societies. His attitude served as a decided check on Hamilton's decided leaning toward an absolutism. Yet these denunciations were but the precursors of the Sedition Laws, which the Federalists afterwards tried to impose upon the people of the country, but Jefferson had already aroused them to a sense of the extremely dangerous tendency present in such a law.

As a whole, the insurrection was important in crystallizing the opposition, and so prevented the Federalists from going to extreme measures, for they saw clearly the great power of the opposing party. It also served to put the Central government upon a firmer basis, and demonstrated that the Executive was amply able to secure the enforcement of the laws. Jefferson and his party had begun the great struggle for State's rights—a struggle which has never ceased, even though, at times, it has seemed as if the great forces of centralization would gain a complete mastery.

PATRICK HENRY.*

THAT generous and public-spirited gentleman, who is too modest to have his name made known, and too disinterested and unselfish to receive any public praise for his noble and patriotic act, has permitted me to say that this portrait of Patrick Henry, which he has given, and I have the honor of presenting, has been placed in your college halls in order that your young men, on the threshold of life, some of whom, doubtless, are to play a conspicuous part in the arena of life, and, may be for good or evil, influence the course and destiny of this land, may have continually before them the face of this great American as an example of pure and exalted manhood, of devotion to country, and consecration to duty. The habit of recalling examples will soon produce the habit of imitating them. We are told that the citizens of Rome placed the images of their ancestors in the vestibules of their houses, so that whenever they went in or out, those venerable statues met their eyes and recalled the glorious actions of the dead, to fire the living, to excite them to imitate and even to emulate their great forefathers. The success, says Bolingbroke, answered the design. The virtue of one generation was transmitted by the magic of example, into several; and a spirit of heroism was maintained through many ages of that commonwealth.

Unequal as I am to the duty assigned me, if what I have to say to-night shall help to lead the young men of this college to a higher appreciation of the simple grandeur, the rugged beauty, and the unaffected nobility of the character of Patrick Henry, and

*An address delivered before the faculty and students of Randolph-Macon College on the occasion of the presentation of the portrait of Patrick Henry to the Washington Literary Society, December 9, 1901, by J. Alston Cabell, Esq., of Richmond, Va.

some may be excited by the magic of his example, to imitate or even emulate the great patriot, I shall have accomplished a great object.

All men have two ways of improvement—one arising from their own experience, and one from the experience of others. In following the course of great men remember while you may not rise to the full measure of their greatness, yet you must determine not to fall below their standard of duty and obligation. Mr. Henry's career may be studied as a guide for private life as well as public station. We have no need to throw the mantle of charity over personal defects which might otherwise mar the brilliancy of his fame. His private life was as pure as his public achievements were brilliant and illustrious.

Patrick Henry was born in this grand old county of Hanover, at Studley. His youth gave no presage of his future greatness. Indeed, the few advantages his parents were able to offer him were sadly neglected. At an early age his father set him up in a little mercantile business, and he promptly made a failure of it. A year after, when he was only 18 years of age, and out of employment, he married a girl as impecunious as himself.

By the joint assistance of their parents, however, the young couple were settled on a small farm, where Henry proceeded to demonstrate as positively and as rapidly as possible, that he was no farmer, and, by the method of reduction, that his talents, if he had any, must lie in some other direction. For a second time he went into merchandise. This experiment was still more unfortunate than the first, and in a few years it left him a bankrupt. "Every atom of his property was now gone," is the description we have of his condition; "his friends were unable to assist him any further; he had tried every means of support, of which he could suppose himself capable, and every one had failed; ruin was behind him; poverty, debt, want, and famine before; and, as if his cup of misery were not already full enough, here were a suffering wife and children to make it overflow." The pressure of such overwhelming misfortune would have

crushed the life and spirit out of any but the strongest character. It was under such trials that Henry showed what great native firmness of character he possessed. "He was not one of those," as Dr. Johnson had said of Swift, "who, having lost one part of life in idleness are tempted to throw away the remainder in despair." The manliness of his character not only kept his mind from being clouded by despondency, but even gave him a cheerfulness of spirit under the most severe reverses of fortune, and showed that he was fitted to endure the buffetings of the rudest storms. As a last effort, we are told, after he had failed at everything else, he determined to make a trial of the law. Nothing but failure, dire and certain failure, was predicted; but having passed as a lawyer, Henry was a conspicuous success from the first, and he was ready when opportunity came to him. It came in the shape of what is known as the famous "Parsons Cause." You all know, or ought to know, about that celebrated controversy. It is a part of the history of Virginia, and was fought out here in this old county. The power and the intelligence of the Colony, as well as law and justice and right, were on the side of the Parsons. It seemed a desperate—a hopeless—measure for any one to undertake; even the most learned and skillful advocate. The case had been virtually decided in favor of the Parsons, and at that time, it appeared to be only a question of arithmetic to determine how much was due them. The distinguished counsel for the defendants withdrew from the case, saying he could do nothing more, and the case was hopeless. In this situation they turned, with their desperate case, to the plucky young lawyer who never lost hope and never despaired. There were a combination of circumstances surrounding the case which appealed to the selfish passions of the people. Could these passions be fanned into a storm, all considerations of law and equity would be swept out of sight. Henry saw his opportunity. "The man and the hour had met." The description of that day's triumph reads as if it were from the pen of some poet. The young attorney, through the beginning of his speech,

faltered and stammered, but by degrees his attitude became erect and lofty; the spirit of genius began to awake in all his features; his countenance shone with a nobleness and grandeur which it never before exhibited; his action became graceful, bold, and commanding, and the tones of his voice exercised a magical charm, which baffles the description of narrators. They can only say "that it struck upon the ear and upon the heart in a manner which language cannot tell." In short, "now was first witnessed that mysterious and almost supernatural transformation of appearance, which the fire of his own eloquence never failed to work in him."

When the verdict came in, the old court-house at Hanover witnessed a sight forever memorable in its history. The excited multitude, in defiance of the Court and the resistance of the officers, seized their hero, bore him aloft out of the court-house, and around the court green with shouts of triumphant joy.

Never was success at the bar more sudden or more complete, and he at once took a place at the head of his profession. But Mr. Henry was destined for greater work and more exalted service. King George and the British Ministry did not intend to let him expend his transcendent eloquence on law cases in Hanover and Louisa. The great political arena was to be the field of his glory, and there was the dazzling brilliance of his genius to be displayed. Henry entered the House of Burgesses about the time that the British Ministry sent them a copy of the Stamp Act, as the only reply to their petitions and remonstrances against such a high-handed violation of the ancient constitutional rights of the Colonies. The question of the hour was, what was to be done about it. It was now the law of the land, and was soon to go into effect. The time for remonstrance had passed. To submit to it quietly would be to reduce the colony to a state of slavery, but those who had guided the course of Virginia, when they considered her weak and defenseless condition, were unwilling to think of resistance. It was at such a time that Patrick

Henry, a new member and an almost unknown man, introduced his ever-memorable resolutions, and dictated the policy of Virginia.

Mr. Jefferson says that by these resolutions Mr. Henry took the lead out of the hands of those who had hitherto guided the proceedings of the House, and after the debate, which he says was "bloody," there was no longer a question among the body of the people as to Mr. Henry's being the first statesman and orator of Virginia. Indeed, from that time he became the idol of the people.

Mr. Henry, who was more indifferent to the preservation of the records and credentials of his career than any of our public men, in the final survey of his career, regarded the introduction of these resolutions as the one most important thing he ever did. Along with his will was found a copy of these resolutions, sealed up, and directed to his executors. He seemed to care for the preservation of no other evidence of his public service. After describing the circumstances of their preservation and adoption, and stating that they established the point of resistance to British taxation and brought on the war which established American independence, he added these memorable words, which cannot be too often recalled by every American citizen: "Whether this will prove a blessing or a curse, will depend upon the use our people make of the blessings which a gracious God hath bestowed on us. If they are wise, they will be great and happy. If they are of a contrary character, they will be miserable. Righteousness alone can exalt them as a nation. Reader! whoever thou art, remember this, and in thy sphere practice virtue thyself and encourage it in others."

. A Northern historian, Moses Coit Tyler, speaking of these resolutions and their consequences, says: "Meanwhile, on the wings of the wind, and on the eager tongues of men, had been borne past recall, far northward and far southward, the fiery unchastised words of nearly the entire series to kindle in all the colonies a great flame of dauntless purpose." And after setting

forth the effects produced by them, continues: "All these facts, and many more that might be produced, seem to point to the Virginia resolutions of 1765 as having come at a crisis of the Revolution—and as having then uttered, with trumpet voice, the very word that was fitted to the hour and that gave to men's minds clearness of vision and to their hearts a settled purpose."

On the 24th of May, 1774, the House of Burgesses received the alarming news of the passage of the Boston port bill. They designated the day on which it was to take effect—June 1st—as a day of fasting, humiliation, and prayer, devoutly implored the Divine interposition for averting the heavy calamity which threatened destruction to their civil rights and the evils of civil war, to give them one heart and one mind firmly to oppose, by all just and proper means every injury to American rights, etc. Lord Dunmore was so incensed at their action that he immediately dissolved the House. The members, however, met at the Raleigh Tavern, passed resolutions, and set on foot plans for the establishment of an annual Congress of all the colonies. During the conferences held at this period we are told "Patrick Henry was the leader." George Mason wrote of him at the time: "He is by far the most powerful speaker I ever heard. * * * But his eloquence is the smallest part of his merit. He is, in my opinion, the first man upon this Continent, as well in abilities as public virtues."

In the Continental Congress which assembled at Philadelphia on the 5th of September, 1774, Mr. Henry at once sprang to the front as a leader. "Even those who had heard him in all his glory in the House of Burgesses of Virginia, were astonished at the manner in which his talents seemed to swell and expand themselves to fill the vaster theatre in which he was now placed, and as he had been before proclaimed the greatest orator in Virginia, he was now on every hand admitted to be the first orator in America." It was not as an orator alone that Mr. Henry made a reputation in that distinguished body. After more than seven weeks spent in the closest intellectual intimacy with fifty of the

ablest men in America, his fame spread throughout the colonies, and his distinguished associates were impressed not only with his eloquence, but also with his intelligence, integrity, and power.

But the most brilliant act in his wonderful career was yet to come.

When the Virginia delegates assembled in convention on March the 20th, 1775, in the Old Church in Richmond, the sentiments which still influenced many of the leading members were strongly loyal. They recited with great feeling the series of grievances under which the colonies had labored, and insisted with great firmness on their constitutional rights, but they were most explicit in pledging their faith and allegiance to King George III., and avowing their determination to support him with their lives and fortunes in the legal exercise of all his just rights and prerogatives. They sincerely wished for a return of friendly intercourse with Great Britain and were averse to any means of violence. It was not so with Patrick Henry. He had long since read the true character of the British Court, and saw that no alternative remained, but abject submission or heroic resistance. The convention, which was dominated by the delegates from the lower counties, opened very mildly, and bid fair to be a session of earnest remonstrance and humble supplication but the delegates from the upper country were fired with quite a different spirit, and they found a leader in Henry around whom they could rally. Like a thunderbolt he hurled his ringing resolutions into the convention. He was, indeed, infused with the bold spirit of the patriotic representatives of the upper country. The time for supplication and remonstrance had passed. A militia must be established, said the resolutions, for the protection and defence of the country, and to secure our inestimable rights and liberties from the further violations with which they have been threatened. The Colony must be immediately put into a state of defense and a committee appointed to prepare a plan for embodying, arming, and disciplining such a number of men, as would be sufficient for the purpose.

The men who had been all powerful and had hitherto shaped the course of the colony were dumbfounded, the wealthy land-owners on the seaboard were filled with alarm and consternation, and even men of such well-known patriotism as Richard Bland, Benjamin Harrison, and Robert C. Nicholas violently opposed the resolutions. They insisted that filial respect demanded the exercise of patience. Urged the conciliatory temper that had lately been professed by the King and his Ministers, the endearing character of the ties that had hitherto connected Virginia with the Mother Country, the strength and lustre we derived from our connection with her, the utter hopelessness of a contest, and that it would be time enough to resort to measures of despair when hope had entirely vanished.

Mr. Wirt says of Patrick Henry: "His was a spirit fitted to raise the whirlwind, as well as to ride in and direct it." If his resolutions had startled the convention by their daring and defiant tone, the wonderful speech with which he supported them was able to lift his hearers to the heights from which he viewed the situation and fire their souls for action. He rose with a majesty unusual to him in an exordium, and with all that self-possession by which he was so invariably distinguished. But with him it was no time for ceremony. The question before the House was one of awful moment to the country. It was nothing less than a question of freedom or slavery. He wished the people to know the whole truth—to know the worst and to provide for it. He pointed to the warlike preparations of Great Britain, which could be intended only to bind and rivet upon the colonies those chains which the British Ministry had been so long forging. Entreaty and humble supplication had been exhausted. It was vain to indulge in the fond hope of peace and reconciliation. Unless they meant basely to abandon the noble struggle in which they had been so long engaged, "We must fight!" he exclaimed with all the power of his impassioned eloquence. "I repeat it, sir, we must fight! An appeal to arms and to the God of hosts is all that is left us!" But I need not repeat here how he met the

arguments of the peace party, nor attempt to recite his flaming words, that rang like a trumpet-call to arms—swept the convention like a whirlwind, gaining in strength and power as its tones vibrated beyond the borders of Virginia, until they thrilled every heart in the remotest part of the Colony. "Is life so dear, or peace so sweet," he ended, "as to be purchased at the price of chains and slavery? Forbid it, Almighty God! I know not what course others may take, but as for me, give me liberty or give me death!"

He took his seat, said Wirt. No murmur of applause was heard. The effect was too deep. After the trance of a moment, several members started from their seats. The cry, "To arms!" seemed to quiver on every lip, and gleam from every eye! His supernatural voice still sounded in their ears, and shivered along their arteries. They heard in every pause the cry of liberty or death. They became impatient of speech—their souls were on fire for action.

Henry was not the man to content himself with urging a resort to arms and then leave it to others to carry on the conflict, or to shrink from dangers to which he deemed it necessary to expose his fellow-countrymen. He at once threw himself, heart and soul, into the movement he had set on foot by his eloquence. "We find him assuming the character of a military leader," says Everett, "and discharging its duties with a spirit and efficiency which seemed to show that, if circumstances of a wholly accidental nature had not checked his progress, his energies would probably have taken this direction, and given him as high a rank among the warriors of his country as he has in fact obtained among her orators and statesmen."

The first overt act of war in Virginia, as Jefferson testifies, was committed by Patrick Henry. The first armed resistance to a Royal Governor was made in Virginia under his direction and inspiration almost as early as that made by the "embattled farmers" at Lexington and Concord. In the first organization of the Revolutionary army in Virginia the chief command was

given to him. Why he did not retain this command involves a discussion we cannot go into here. It is sufficient to say that no blame or discredit ever attached to him. Instead, however, of showing discontent and resentment at the treatment he received, he used all his influence with his troops to repress their contemplated demonstrations in his favor and to make them, as he said to them himself, the glorious instruments of saving their country. He showed then, as at all times in his career, his exalted character and his unselfish devotion to his country.

For any passing mortification he may have been occasioned, he soon received ample satisfaction from his grateful fellow-countrymen. As a signal-mark of public favor he was designated as the first Chief Executive of Virginia, an office which he three times filled. In fact, there was no office or post of honor that could be conferred by his people that was not at his disposal. As Governor, as a member of the Conventions, as a member of Congress, in every position in which he was placed, and at all times and under all circumstances, he was, as he, indeed, said he considered himself to be, in his speech before the Convention of 1788, "the servant of the people of this Commonwealth; as a sentinel over their rights, liberty, and happiness."

What he might have achieved as a soldier, had he continued in the service, we can never know; but as Mr. Grigsby said: "That he would not have made a better fighter than Jay, or Livingston, or the Adamses; that he might not have made as dashing a partisan as Tarleton or Simcoe, his friends might readily afford to concede; but that he evinced what neither Jay, nor Livingston, nor the Adamses did evince—a determined resolution to stake his reputation and his life on the issue of arms—and that he resigned his commission when the post of imminent danger was refused him, exhibited a lucid proof that, whatever may have been his ultimate fortune, he was not deficient in two grand elements of military success—personal enterprise and unquestioned courage."

When George Rogers Clark, "the Hannibal of the West," laid his plans before Mr. Henry, then Governor, his sagacious mind

at once grasped the vast benefit it would be to the future of the country, if the campaign should prove successful, and the assistance he rendered Clark must always be remembered in connection with the conquest of the Northwestern Territory by the gallant young Virginian.

It was Patrick Henry, indeed, who lit the fires of the Revolution, and called armies up from the valleys and down from the mountains' heights to battle for the birthrights of man. Such was the spirit of the times, and such the very atmosphere itself, that no true man could live without being infused with an ardent love of liberty and a high conception of duty and responsibility. But with Henry the love of liberty was a passion. It was to him what "alone gives the flower of fleeting life its lustre and perfume." His high spirit "could endure chains nowhere patiently; and chains at home where he was free by birthright, not at all."

It is well with any land when her great men are sincere in their faith, devoted and unselfish in their love of country, and pure in their lives. It is said of Patrick Henry: "His morals were strict. As a husband, a father, a master, he had no superior. He was kind and hospitable to the stranger and most friendly and accommodating to his neighbors. In his dealings with the world, he was faithful to his promises, and punctual in his contracts to the utmost of his power." "Keep justice, keep truth," was his injunction to John Randolph. "Righteousness alone can exalt them as a nation," was his declared belief. "Virtue, morality, and religion alone renders us invincible," he wrote to a friend. Well might Virginia point with pride to such a son and say, "Imitate my Henry."

His last act was in response to a call from his great chief, and, as he believed, from his country.

The one great passionate love of Richelieu was France. In a dramatic part of the play that bears his name, the old Cardinal is on the stage—dying. In a few moments death will bring rest and quiet to the tired, wearied, old man, whose life has been one long scene of strife and warfare, and peace at last is settling

upon him. Alarming news suddenly arrives; the helpless Prince rushes to the death-bed of the great man and begs him to live for the sake of France! At that name he arouses himself and struggles with death, as did Hercules over the body of Alcestis, and comes out the victor. In Mr. Henry's old age, long after he had retired from the active pursuits of life, and but one week after he had written Mr. Blair that he was too old and infirm ever again to undertake public concerns, he received an earnest appeal begging him to come forward as a candidate for the next General Assembly, where he would have to face a stupendous task. The appeal was from General Washington, who believed the country was in great danger. He at once declared himself a candidate for the Legislature, old and infirm as he was. He was elected, but death claimed him before he took his seat.

"Thus lived, and thus died, the celebrated Patrick Henry, of Virginia—a man who justly deserves to be ranked among the highest ornaments and noblest benefactors of his country. Had his lot been cast in the republics of Greece or Rome, his name would have been enrolled by some immortal pen among the expellers of tyrants and the champions of liberty; the proudest monuments of national gratitude would have arisen in his honor, and handed down his memory to future generations."



VIRGINIA CONSTITUTIONAL CONVENTION OF 1829.

C. H. YOUNG, A. M.

FROM its adoption, in 1776, the Constitution of Virginia met with growing disfavor in certain sections of the State, especially in the Western counties. As the Western counties increased in population and in importance, the unpopularity of the Constitution increased and frequent attempts were made to change it. The article in the Constitution which met with the most disfavor was the one which called for a "mixed" basis in representation, i. e., the negroes were to count three-fifths. This idea of property representation was advanced by Aristotle in his famous work on "Politics." It was adopted as the basis of representation in Congress in the Constitution of the United States in 1787. This basis met with favor all over the South and was popular with the people of Eastern Virginia.

In order to understand why this feature of the Constitution was objectionable to the people of the Western part of the State, we must first compare the conditions existing in the two sections of the State. First, the people of the Eastern counties owned large plantations and many negroes. The Westerners were small farmers and owned almost no slaves. Thus while the people of the Eastern counties were strictly Southern in every respect, the people of the Western counties were Northern in habits and in sentiment. As one of their representatives in the Convention, Mr. Campbell, of Brooke, said in one of his speeches: "The Old Dominion has long been celebrated for producing great orators; the ablest metaphysicians in policy; men that can split hairs in all abstruse questions of political economy. But at home, or when they return from Congress, they have negroes to fan them asleep. But a Pennsylvania, a New York, an Ohio, or a Western Virginia statesman, though far inferior in logic, metaphysics, and rhetoric, to an old Virginia statesman, has this advantage, that when he returns home he takes off his coat and takes hold of the plow." Western Virginia was no longer Virginian.

Secondly, the freehold qualification for suffrage was objectionable to the entire West and also to many in the East. This clause in the Constitution restricted the vote of the West far more than it restricted the vote of the East. Many of the white people of the West were disfranchised, while their neighbors, sometimes scarcely better off than they, were allowed the right of the ballot.

But while these political questions divided the State, the character of the population of the counties beyond the Alleghanies served also to divide the State into two sections, for the population of these counties was more or less heterogeneous, while the people of the East were of pure English blood.

Furthermore, the influence of the new Western Democracy, led by Jackson, Benton and others, was beginning to make itself felt. This influence caused the people of the Western counties to look with disdain upon the easy life of planters of Eastern Virginia and the Westerners murmured more and more against the Constitution.

Thus there grew up in the Old Dominion two sections divided by the Alleghanies. The one, aristocratic, conservative, Southern; the other, extremely democratic, liberal, Western. This sectional division of the State led to the division of the State in 1863.

Since the Western section was a practically new country its population increased rapidly, while the population of the Eastern section increased slowly. Especially was the increase in the white population of the West ahead of the increase in the white population of the East, as the appended table shows. The State was divided into four districts—the Western, the Valley, Middle Virginia, and Tidewater:

	FROM 1790-1800	1800-1810	1810-1820	1820-1829
Western	.83¾%	.47%	.27½%	.36½%
Valley	.20	.00¾	.11¾	.14¾
Middle	.11½	.01	.00¾	.05 ³ / ₁₀
Tidewater	.02	.00¼	.05½	.02½

As the population of the West grew, the unpopularity of the Constitution grew, and after repeated attempts had failed, a bill was finally gotten through the Legislature during the session of 1827-'28, "for taking the sense of the voters on the call of a Convention." During the year 1828 the polls were opened and the question was decided in the affirmative by a vote of 21,896 for and 16,646 against it.

When it had been decided to call a Convention, the people all over the State became deeply interested. Everybody seemed to realize the importance of the work to be done by the Convention and the necessity of sending the best men in the State to sit in the Convention. The Legislature had a great deal of work to do in getting ready for the Convention. Here are some of the questions which the Legislature had to settle, taken from an article published in the *Richmond Enquirer*, in 1829. "Who are the people? Who are entitled to vote for members of the Convention? Is every free white man a member of our community? Have freeholders the exclusive right of voting for members of the Convention? What are the principles of representation in choosing members of the Convention? Are the people to be represented? Are the counties to be represented? Are the people, including taxation, to be the basis of representation? Are the white people, including the negroes, to be represented? * * * Is the Constitution to be submitted to the people for ratification? If so, is it to be submitted clause by clause or as a whole?"

Some of these questions occasioned a great deal of debate in the Legislature, although some of the principles which the Westerners insisted upon were by no means plausible. The question of who are entitled to vote for members of the Convention could be answered in only one way—those who were entitled to vote in all other elections. The question of the basis of representation proved the most difficult of settlement. For weeks and weeks the Legislature discussed plans. Many different schemes were presented and later as compromises many combinations of

the schemes already presented were offered. Some favored a county basis; some a Senatorial district basis; some even proposed a Congressional district basis. After a long discussion the Senatorial district scheme was adopted as the basis of representation. Each Senatorial district was to have four representatives, and as the State was divided into twenty-four districts, the total number would be ninety-six. The Convention should meet on October 5, 1829, in the Capitol.

In the selection of the members of this Convention the good sense and conservatism of Virginia was well brought out. The ablest men were sought for without regard to the locality in which they lived. The result was that some of the counties of a district sometimes had several delegates, while some had none. The district composed of the counties of Amelia, Chesterfield, Cumberland, Nottoway, Powhatan, and the town of Petersburg, sent John W. Jones, Benjamin W. Leigh, and Samuel Taylor, all three of Chesterfield, and William B. Giles, of Amelia. Thus while Chesterfield county had three delegates, the counties of Cumberland, Nottoway, and Powhatan and the town of Petersburg had none. Other instances of this disregard of local representation might be mentioned, but this is sufficient to show the spirit that actuated the people of Virginia at this particular time. The object in view was men and not county representation.

The result of this eager desire for intelligent representation was that a body of men were assembled together in the Convention, which has rarely ever been equalled for its intellectual ability and powers of oratory. Usually in bodies of this kind there are a few great minds who take the lead and form legislation, while the great majority simply follow the leaders. But in this Convention all were leaders. And most of them were men of the first ability. Almost all were orators of great reputation. Several had held some of the highest positions in the nation. Two had been Presidents of the United States; several had distinguished themselves in Congress; one was the Chief Justice of the United States; many had won renown in the State Legislature;

some had won distinction in the judiciary; some at the bar. Of those who had sat in the Convention of 1776, the only survivor—Madison—had a seat in this Convention.

The assembling of this Convention was of interest, not only to Virginians, but to the entire country. Crowds of spectators from all parts of the State attended its sessions. Distinguished strangers from a distance were present. The importance of the subject to be discussed, and the great renown of the members, united to make the Convention one of the most interesting that has ever been held. The crowds of spectators were not disappointed. The debates were intensely exciting. "The fundamental principles of government, the elements which should enter into the composition of all the various departments, were discussed at great length, and with much ingenuity," says Mr. Ritchie. "The struggle between the local interests of different parts of the State were likewise maintained with great spirit and perseverance."

The Convention was called to order by Mr. Madison. Mr. Monroe was elected President of the Convention by acclamation. Mr. George W. Munford was elected Secretary. The rules of the House of Delegates were adopted to govern the proceedings of the Convention.

Although in its work the Convention had to create an entire Constitution, the questions which awakened the greatest interests and called forth the liveliest debate were what should be the basis of representation in the Legislature and whether or not there should be a qualified suffrage.

The suffrage question created a most interesting discussion. Almost every amendment offered to the old Constitution had a clause in it in reference to the suffrage. The majority of these would have done away with property qualifications altogether. As a type of these clauses, I quote the clause in reference to the suffrage, included in the resolutions offered by Mr. Morgan, of Monongalia:

"That all free white men of this Commonwealth are of right, and forever shall be, equally free and independent; and suffrage

without regard to birth or condition of estate, being the infeasible right of every such effective man, proving permanent common interest with, and attachment to the community, it is declared to belong to, and in the election of Representatives in the General Assembly shall be exercised by, all free white male citizens of the Commonwealth, of the age of twenty-one years, who shall reside in the county, city, or borough, in which they respectively propose to vote, and shall have so resided for one whole year next before the time of election; *other than those who shall have failed in this Commonwealth to pay any public tax or levy or part thereof, within either of the two years next preceding the one in which they propose to vote*; or paupers; or those under judgment of felony or other infamous crime; or soldiers, mariners, or marines in the service of the State or the United States; and that the right of suffrage may be exercised only by persons disposed for the prosperity and well-being of the Commonwealth, there shall be a tax of twenty-five cents per annum, levied on every free white man of the age of twenty-one years, to be collected and paid into the public treasury; and the Legislature shall annually set apart an amount of the property tax equal to the whole amount of poll-tax so paid in; and these two sums shall be annually appropriated and constitute a principal fund, always to be preserved and vested in profitable uses, the interest and profit whereof shall in the best manner be applied every year to the education of the youth of Virginia."

This was the Westerners' idea of suffrage. The influence of the Western spirit is shown in the provision for schools. The idea of endowment of State funds for the public was a new one and would probably have worked well if it had been made law. This plan was supported by Mr. Doddridge, of Brooke county; Mr. Cooke, of Frederick; Mr. Mercer, of Loudoun, in fact, by the Western delegation almost solidly, and by some few of the Eastern representatives. It was opposed by Mr. Leigh, of Ches-

¹Compare with the new Constitution now being discussed.—Ed.

terfield; Mr. Morris, of Hanover, and a large majority of the Eastern delegates. This plan was finally defeated, although the freehold qualification was modified to some extent.

The question of what should be the basis of representation in the Legislature proved the most interesting that was brought before the Convention. The Committee on Legislative Department reported the following resolution:

"Resolved, That in the apportionment of representation in the House of Delegates, regard should be had to the white population exclusively."

Mr. Green, of Culpeper, moved to amend it by striking out the word "exclusively," and adding in its place the words "and taxation combined." This brought on an able and lengthy debate. Mr. Leigh, of Chesterfield, wanted to know why "the friends of the proposition reported by the Legislative Committee" wished to put the control of the wealth of the State in the hands of those who did not own it, and denounced the proposition as a "cruel, palpable and crying injustice."

Mr. Cooke, of Frederick, replied. He said that this principle was asserted in the "Declaration of the Rights of the people of Virginia." He spoke at some length on the "equality of man," and held "that a majority of the community possesses, by the law of nature and necessity, a right to control its concerns." He thought that the slaveholders feared that if the suffrage was given to all white men slave property would be oppressively taxed. He compared the two sections of the State and contended for a representation based solely on numbers.

Mr. Upshur, of Northampton, in replying to Mr. Cooke, delivered probably the most brilliant oration delivered in the Convention. He spoke first of the right of the majority to rule. From what source was this right derived? "There is no original *a priori* principle in the law of nature, which gives a majority a right to control a minority." But admitting the rule of the majority to be given by nature, there are other kinds of majorities, besides a majority of numbers. There is a majority of interests.

"If in the estimate of numbers, all are counted, why exclude any from the right of suffrage? The rule, if it exists in nature, is worth nothing unless its fair analogies will hold in a state of society." If this rule should work, the negroes would have to be given the suffrage.

"As a general proposition, in free government, power ought to be given to the majority. * * * The question before us, is prior to actual government; it is not whether a majority shall rule in the Legislature, but of what elements that majority shall be composed." The interests of the two sections are not identical, and the difference between the two arises from property alone. Persons and property are the constituent elements of society. Persons and property are the subjects of legislation. Therefore, he "contended that property ought to be considered in fixing the basis of representation."

Mr. Upshur had the advantage of Mr. Cooke in having history on his side. The views of Mr. Cooke and his colleagues were practically new.

I have reviewed these two speeches to give an idea of the positions occupied by the two sides. To undertake to follow out the entire argument on this subject would require too much space. It was decided by the Convention to make both property and numbers the basis of apportionment.

In making up the actual apportionment of representatives a deplorable state of affairs was found to exist. Many of the delegates, especially those from the West, favored representation by sections. They wanted to give each of the four divisions of the State a certain quota of representatives in the House of Delegates, which could not afterward be changed. The apportionment among the different counties in the divisions could be changed, but the total number assigned to each division could not be altered. Thus the Western Division and the Valley Division would be united against the Middle and the Tidewater divisions. The apportionment for the Senate was to be even more sectional. The State was to be divided into two sections—

East and West—each section was to be allotted a certain quota of representatives which could not be changed in after years.

This division of the State into sections served better than anything else to show the great difference between the peoples of the two sections. The West was Virginian now in name only. In other respects the counties beyond the Alleghanies were thoroughly Western. It can be easily understood now why they withdrew so readily from the Old Dominion in 1863.

The principal of schemes proposed for apportionment in the Legislature were five in number. Mr. Cooke proposed to have a House composed of one hundred and twenty and a Senate of thirty-six delegates. Mr. Gordon proposed to have a House of one hundred and twenty delegates to be apportioned among the four divisions, as follows: The Western 26, the Valley 24, the Middle 37, and the Tidewater 33. Mr. Marshall's House was to be composed of one hundred and twenty-six delegates, to be distributed as follows: The Western 24, the Valley 23, the Middle 43, and the Tidewater 36. Mr. Leigh proposed a House of one hundred and twenty-six delegates, of which the Western District should have 26, the Valley District 23, the Middle District 42, and the Tidewater District 35. Mr. Upshur proposed a House of one hundred and twenty delegates, the Western District to have 26, the Valley District 22, the Middle District 38, the Tidewater District 34, and a Senate of thirty members, apportioned as follows: The Western District 7, the Valley District 6, the Middle District 9, the Tidewater District 8, which would give the West 13 and the East 17.

Various compromises were offered and the result was that a compromise plan was adopted. According to this plan the House was to be composed of one hundred and thirty-four members, chosen annually, to be distributed as follows: The Western District 31, the Valley District 25, the Middle District 42, and the Tidewater District 36. This would give the West 56 and the East 78.

The Senate was to consist of thirty-two members—thirteen from the West and nineteen from the East. The apportionment of these districts and the two great divisions were not to be changed in future.

These were the chief measures discussed. These questions had brought on the Convention. Many questions of less importance were all discussed at length. It will now be interesting to examine some of the distinctive features of the new Constitution.

One rather peculiar feature of the new Constitution was the last clause in Section 7 of Article III.: "Provided, that all persons holding lucrative offices, and ministers of the Gospel, and priests of every denomination, shall be incapable of being elected members of either House of Assembly."

Provision was also made to prevent duelling among officials. It was also provided that in all elections the votes should be given openly, or *viva voce*, and not by ballot. This form of election, although not altogether good, is a sure preventative of unfairness in the count.

As according to the former Constitution, the Governor of the State was to be elected by the Legislature and was to hold his office for three years and was to be ineligible to succeed himself, although he might again be chosen Governor after three years.

A Council of State, to consist of three members, was provided for. They were to be elected by the General Assembly and to hold office for three years.

The "Bill of Rights," adopted unanimously by the Convention of 1776 as the basis and foundation of government, was prefixed to the "new Constitution."

The Convention of 1829 made but few changes in the "old Constitution," the suffrage clause being changed only so as to give the suffrage to more men, while the freehold qualification was not done away with altogether. The fight for representation based on numbers alone failed. The men who had brought on the Convention did not succeed in getting all they desired. The

total number of voters in the State was increased only a few thousand. Many people were opposed to the new Constitution, as was shown by the vote on its ratification, 26,055 votes being cast in favor of ratification and 15,562 against it. The opposition was principally in the Western counties, Brooke county casting 371 votes against ratification and none in favor of it.

Legislation could not satisfy the demands of both sections of the State. The differences between the two peoples—for they were different peoples—were too great.



THE LEVEN POWELL CORRESPONDENCE—1775-1787.

JOHN CONNOLLY TO JOHN GIBSON.*

PORTSMOUTH, Aug. 9th, 1775.

Dear Sir,—

I have safely arrived here and am happy to the greatest degree in having so fortunately escaped the narrow inspector of my enemies—the enemies to their country to good Order and Government. I should esteem myself defective in point of friendship towards you should I neglect to caution you to avoid an over zealous exertion of what is now so ridiculously called patriotic spirit but on the contrary to deport yourself with that moderation for which you have been always remarkable and which must in this instance tend to your honor and advantage. You may be assured Sir that nothing but the greatest unanimity now prevails at home and that the innovating spirit amongst us here is looked upon as ungenerous and undutiful and that the utmost exertion of the Power of Government if necessary will be used to convince the infatuated people of their folly, I could assure you Sir—give you such convincing proofs of what I assert and from wh'ch every reasonable person may conclude the effects that nothing but madness could operate upon a man so far as to overlook his duty to the present constitution and to form unwarrantable associations with enthusiasts whose ill timed folly must draw upon them inevitable destruction—his Lordship desires you to present his hand to Capt'n. White Eyes and to assure him that he is very sorry he had not the pleasure of seeing him at the treaty or that the situation of affairs prevented him from coming down.

Believe me dr. Sir that I have no motive in writing my sentiments thus to you further than to endeavor to steer you clear

*This letter and the one from Dunmore are found in the Powell papers.—Ed.

of the misfortunes which I am confident must involve but unhappily too many. I have sent you an address from the people of great Britain to the people of America and I desire you to consider it attentively which will I flatter myself convince you of the silliness of many declamations and of the absurdity of an intended Slavery. Give my love to George and tell him that he shall hear from me and I hope to his advantage. Interpret the inclosed speech to Captn. White Eyes from his Lordship. Be prevailed upon to steer the popular error and judge for yourself, act as a good subject and expect the Rewards due to your services. I am Dr. Sir,

Your sincere fr'd & serv.

JOHN CONNOLLY.

LORD DUNMORE TO CAPTAIN WHITE EYES.*

BROTHER CAPTAIN WHITE EYES:

I am glad to hear your good speeches sent me by Major Connolly and you may be assured that I shall put one end of the Belt which you have sent me into the hands of our great *King* who will be glad to hear from his Brothers the Delawares and will take a strong holt of it. You may rest satisfied that our foolish young men shall never be permitted to have your lands, but on the contrary the great *King* will protect you and preserve you in the possession of them. Our young people in the country have been very foolish and done many imprudent things for which they soon must be sorry and of which I make no doubt they have acquainted you, but I must desire you not to listen to them as they would be willing that you should act equally foolish with themselves but rather let what you hear pass in at one Ear and out at the other so that it may make no impression on your heart until you hear from me fully w'ch shall be so soon as I can give him further information who am your friend and Brother.

*This letter was enclosed with Connolly's.

Captain White Eyes will please to acquaint the Cornstalk with these my sentiments also as well as the chiefs of the Mingoes and the other Six Nations.

Yr. sincere friend & Elder Brother

DUNMORE.

COL. FRANCIS PEYTON TO LEVEN POWELL.

WINCHESTER, Oct. 18th, 1775.

Sir,—

This afternoon I arrived at this place after a long and Tedious Journey from Pittsburg where I left the Indian Commrs. from the Congress and those from this Colony. They were met by Four or five hundred Indians from the Dif't Tribes viz. Shawnees, Delawares, Senecas, Mingoes &. all of whom appear equally inclined to establish a lasting peace which I apprehend is completed by this time. The Master Conolly in conjunction with our worthy governor hath endeavored to make a masterly stroke to put a stop to the Treaty but the Gent'm'. to whom they sent the inclosed was honest enough to give it up to the Comm'rs. as soon as he received it, which adds much to his reputation. George who is m^r. P. in Connolly's Letter is Brother to John Gibson and is appointed to command the Compa'. of Regulars from West Augusta and is now on his march to join Col. Henry at Wms'.burg. The Indians appear so friendly that they insisted on enlist'g a number of their young men under Capt'n. Gibson on which the Comm'rs. for Indian affairs were consulted who gave it as their opinion none should be taken tho' they could assign no good reason for such opinions and I think it would be a means of linking us together in the most effectual manner. So much for news—I must now enter on another subject. My long stay hath made —— (mutilated).

I am yr. Mo. Ob. Serv.

FRANCIS PEYTON.

JAMES HENDRICKS TO LEVEN POWELL.

HAMPTON, 5th April, 1776.

D'r Major,—

I wrote you some time ago by Capt. Fitzgerald who promised me he wou'd Convey my letter to you since which nothing of consequence with us hath happened. I presume you have long ere now heard of the Elopement of his Lordship and his pyratival fleet, and their Stand at Gwinn's Island. I am told there is not perhaps a more proper place for his purpose in Virginia than this S'd. Island, as it is well watered and fertile and of course capable of holding a considerable number of Stock, so that he has nothing to do but send his Cruisers amongst the different Rivers Collecting and himself as master Grazier overseeing at home where I doubt not but in Short time he will improve the Breed of Sheep and Black Cattle in these lower parts where it is much wanted. He likewise gets many Recruits for his Black Regiment which was ere he left Norfolk much Reduced by a Malignant fevour which carried off numbers of them. We have daily Carcases driving up by the Surf—I believe Since the fleet left us not less than fifteen or twenty. Our Road has been clear Since the departure of the fleet untile yesterday when the Otter with two Tenders came to shore opposite the mouth of our Creek dress'd in as Sumptuous a manner as possible to commemorate the Birthday of the Royal Brute of Great Britain (as Common Sense calls him.) They gave us twenty one Guns but they were but badly Charged as we cou'd Scarcely hear their Reports —. Capt'n — is the Same Captain you left him, his case only Serves to Confirm me in an old observation I've made that nature will have her way, and it only Serves to bring us into Ridicule to attempt to force her, and upon the whole we can clearly See that the Omnipotence of Committee's is not Such as by barely Saying this man Shall be a Captain is Sufficient to Qualify him for it when Surly Nature Says nay. However, by the by, I'm told there are many fishy fellows amongst the late

appointments. You See my friend for want of news I write nonsense.

How goes on that Spir't of Levelling? Is all quiet? We have a Confounded Set of Economists in our present Convention. You're well rid of Continental fray, it gives much uneasiness and I'm Really affraid if it is not augmented many Resignations will be the Consequence in the fall, tho' I Suppose the Convention makes light of the matter as they think the vacancy's can easily be fill'd up. 'Tis true they can query whether an officer who hath been a Season in Service is fitter to profit his Country or any Stradling, Stalking, forked animal (to use a Phrase of an acquaintance) who may be pick'd up by every County Committee.

Our accounts from the Carolina's is Vague & uncertain, the most however to be Creditted is that Clinton is landed near Wilmington and Gen.'al Moore watching his motions. Your friends here all well except Leitch who is laid up with the Gout. My best wishes attend you & believe me to be your Sincere
Fd. and Hble Serv.

JAMES HENDRICKS.

P. S.—Don't forget writing.

ANDREW LEITCH TO LEVEN POWELL.

HAMPTON, May 15, 1776

Dear Sir,—

Your kind favour dated 5th ult. but which from the tenor I conceive to be wrote on the 5th Inst. I received yesterday, by a private hand from Wmburgh, the substance whereof, makes me congratulate myself on having found not only an agreeable, but an usefull correspondent, and if my desire to carry on such correspondence can be gratified by showing regular punctuality on my side, it will afford me very considerable pleasure.

As to anything of the agreeable I can furnish you with, you must therein take your chance; at present, very little is stirring

below Willmsburg worth your notice, and of these things, our accounts here are so prevaricating that I shall not say a word concerning them.

You will have heard of a number of Transports being arrived at Cape Fear, supposed to carry 3,000 Troops, of the arrival of the Nautilus, Collins, & the Forvey, Montague in our road, the last of which now lies below Craney Isle, & the former sailed to Sea yesterday attended by four of the largest Tenders, I suppose for North Carolina. The 8th Regiment marched about three or four days for the same Quarter, where we may suppose some stroke will soon be struck. There is also a talk of 2 battalions of Southern Minute Men marching also, but I hear they will be of small Service. General Lee, Brigadier Howe, their aid-de-camps & D. A. G. Bullet set off the day before yesterday.

From Flags of truce we learn, that the British General Howe is embarked for Quebec, whose schemes may God in his mercy to be distressed, Frustrate—that Nova Scotia has sent Deputies to Congress—and that the great attack will certainly be made in North Carolina first. This will certainly draw most of our Troops to that Province, & I sincerely hope I may be among the number who go—at the same time I could wish that they had rather chosen Virginia for the seat of war. Good reasons on Our side at large, justify this wish, but inclination & the interest of this colony in particular, make me more earnestly desire it.

We have 2 companies, Campbell's & Toll's, in garrison, besides the 3 of the 3d Regiment. We have got up & almost mounted all the cannon from the Fort. At least three Batteries will be erected upon some of the points, & we yesterday began double entrenchments at little England, to be run from the old one (which is to be much enlarged) to the wharf.—Numbers more are in contemplation, but our Engineer had not time to stay when here last.

I really lament the torn & distracted situation of your country; & I believe its situation is singulare, but a little time will set men right, who are wrong from chagreen & prejudice, & not from principals of disafection to their Native Country. A few dis-

appointed carping creatures, whose dastardly Souls never enjoyed one generous thought, if they can talk and hold forth among their honest well-meaning neighbors, shall work you more mischief in two or three Church Sundays, than a hundred virtuous & Sensible Citizens can perhaps eradicate in a year.

Why don't you come down to Wmsburgh? I am certain more Regiments will be raised & I do most cordially join you in wishing to see you once more honorably in the service of your country. Believe me to be with much esteem, Dr. Sir,

Your obt hb. Servt.,

ANDW. LEITCH.

GEO. M'INTOSH TO LEVEN POWELL.*

WILLIMBG, July 7th, 1776.

Dear Sir,—

I recd. y'rs. of 29th Ult. from Dumfries. Your request for some Highland prisoners can't be complied with, the Congress have ordered it otherwise, & directed that they shall be maintained at the Enemy's expence, which, tho' borne in the mean time by us, will be refunded before they are exchanged: They will not be permitted to work unless they please. Among those sent to Loud'n. you may probably get weavers, if so, you are at liberty to hire, remembering to make such a Bargain with them as that you will not loose or be disappointed by their Return, w'ch L. D. is extremely desirous to effect.

No reinforcement is arrived, nor will any of consequence come this Summer; so that I may with Safety to my Country & Honour to myself resign in Sept. time enough to be up at the Election of our Senator. My presence at the Camp would not permit me to speak to our Delegates about the man; let not Ellzey be even mentioned, his luke-warm, procrastinating Tem-

*At one time in command of a partial regiment of North Carolina Regulars. See letter of Craven Peyton to Leven Powell—Nov. 26, 1777.
—ED.

per added to his attachment to the sinking party renders him at this time the most unfit Man alive; an active, resolute & honest Man tho' with moderate abilities will better reconcile the People to the new Government.

The Governour is already too much hampered, his Council & the Senate ought therefore to assist his Moves instead of throwing every obstacle in his Way. Candour & Friendship oblige me to inform you that I wish to serve in the Lower house, which I will not attempt, nor indeed can it be effected, unless one of our Delegates be appointed the Senator. Of the two Cds. Peyton is the man. If you concur with me, speak to him on the occasion; if not I will cheerfully acquiesce. Exert yourself in getting a general meet.'g of the People at the Elect's. Genl. Lee has ordered the 3d. Hth Regt. to continue here; he has 8,000 Men in Chs. Town; & concludes it probable that as Clinton can not make an Impression there, he will push to Virginia; If so We stand a Chance of seeing each other again as soldiers. Our address to the goven. has offended Colo. W. & probably Woodford ——— (illegible) he did not sign it, & thinks himself so much injured by it, that in order to do Justice to his Character he intends to publish to the World his disapprobation: This may bring on a Paper War. Judge how it will end. An Inquiry is making into his Conduct about the 3d Hth. It will comprehend the History of last Winter's Campaign; if I can procure a Copy of the Proceedings, you shall have the valuable present. Yr. Sentiments about Maj'r Leitch are mine. Of the rule of Succession I can't complain. Some of our Vessels sail next Week & the Week after you may perhaps read their fate in Purdie's paper. Colo. Stephens is going on merrily at Portsmouth. Capt. Ball of the 5th arrested for permitting a Jamaica man with 311 Puncheons Rum to be retchen (?) was tried yesterday & honourably acquitted. I can't sufficiently acknowledge your friendly attention to my family. God bless you.

I am Dr Sir Yrs. most affectionately,

Go. McINTOSH.

GO. McINTOSH TO JOHN MUIR.*

PHILADA., Jan'y 5, 1777.

Dr Major,—

Since my last of the 27 ulto in which I gave a particular acct. of our successful attack upon Trenton, the Genl. (lately vested with the full and unlimited powers necessary for the Times) determined to cross the Delaware, an acct. of which up to the 2d Inst. I have sent to Colo. Clopton. Genl. Stephen's & de Bore's Brigades with 2 canon were advanced 2 miles from Trenton to cover their Retreat; the main Body being posted on the Eminense between a creek running thro the Town & the Delaware with 30 odd pieces of cannon. On the 2d Inst. the Enemy, say 5,000, advanced to Trenton, fell in with the advanced parties, who resolutely maintained their ground with much loss to the Enemy, their passage into the Town was disputed every Inch, till the Genl. ordered them all to the Main Body, which they effected with but little loss. The Enemy, deceived by the advanced parties crossing the Creek, attempted the Bridge twice, but were repulsed.

The fight continuing from 1 o'clock till 5, & each fatigued, peaceably made their fires & lay down. At 12 o at night, our Genl. hearing that Howe was comg. in person with a Reinforcement of 3,000 to join his men in Trenton the next morning decamped so privately as not to be observed, filed off to the Left & waited till they came up. At 8 oc a. m. of the 3d this Reinforcement came on, an obstinate Battle ensued till 12 oc. at length the Enemy gave way & our brave Genl. drove them to Princeton, doing good execution as they ran & taking upwards of 700 Prisoners, who were yesterday at Borden Town, & are I suppose now crossing. Report says that Howe with all of the 40th Reg. were so closely pursued, that they took shelter in the College, that Genl. W. sent him a flag offering quarter if they would surrender, if not that he w'd batter it down & put them

*Perhaps a relative of the great Presbyterian preacher of Alexandria.

to the sword; they accepted his offer. But this wants confirmation. Providence so directed the matter, that the Genl. while engaged with the Reinforcements was not attacked in his Rear by the Enemy which he left behind. I saw 'em march out of Town at $\frac{1}{2}$ past 11 oc. Genl. Ewing who commands here, this moment informs me that there are in all 1,000 prisoners, that all the Enemy are routed & flying to their —— (illegible). Genl. Putnam left there yesterday leading on 1,500 Militia to our Genl.'s aid, who is safe. More are —— (illegible). Genl. Heath is in their Rear with a large Body. Genl. Wooster is in possession of Kingsbridge. I have not yet heard of any of our considerable officers being wounded, many of the inferior are wounded. I believe we have lost many Men: they fell on a victorious Field. The Rheumatism prevented me from being with 'em, 'tis better. Pray send this immediately to Maj'r Powell.

Yours &c.

Go. McINTOSH.

John Muir, Alexandria, Va.

Care Capt. Ballard.

W. THOMPSON TO LEVEN POWELL.

COLCHESTER, January 10, 1777.

Dear Sir,—

I have Received yours of the 2d Ulto Together with 2 Wagons Containing 19 Barrels Flour which I have stored in a second house. I have had three Carpenters 8 days at Work on our Bark and was this day obliged to discharge them; they not being able to work for the Ice there is now here, as soone as ever the Weather permits they are to Return and finish her completely, at which time I will give Mr. Chinn word when to come down & you may send the Sailor you mentioned at the same time, from the present prospect of Ice I am afraid it will be some time before we are able to do any thing; however I am determined not to loose one moment in getting the Vessel Ready.

My sloop is not yet Ret'd & am afraid will not soone if the frost continues.

You mention your having purchased 150 Barrels Flour, tho have not said Whether any for me or not, which I hope you have not, as it is now selling currently in Alexandria at 9/. I promised not to interrupt you any more Respecting the price of Flour if you have not agreed on a positive price for that you have bought for me, pray Let it Risque the Markett sooner than give above $10\frac{1}{6}$. I order it down as fast as convenient as I have storage for you and myself procured. You must have heard of General Washington's having Taken about 900 Hessians & killed about 200 in an engagement that happened the day after Xmas when he headed the Army himself that made the attack & we have this day Received an acct. of his having given Genl. Howe a very capital defeat wherein he has done double the Damage to the Enemy as in the former. God grant him the like Success in Every ingagement, he has now greater power Vested in him, than ever was in any man on this Continent, that is he is made Dictator to the 13 United States. You may Expect Something clever will be done. As to their going into Winter Quarters its an Intire Joke. Neither Army have any such Notion so says several Gentlemen imediately from camp, so that the sooner every man that intends Marching the Better, for we Ready are but weak; the last Squadron of Virginia Light Horse went through here this day, I assure you they cut no contemptible figure.

If you can conveniently engage me about 50 or 60 hhds. of good Tobacco to be delivered at this Warehouse at 21 S. 6 p. more if occasion may Require. You will infinitely Oblige me, it will be Necessary if any person wants to sell a Quantity to take their amount Deliverable any time between this & the first of May next to me or my assignor, pray Let me hear from you on this head as soon as Convenient Together with other matters. I have sent you 2 Bushels of Salt being about half I have. I wish with all my heart I could have spared you more. my Gun &

Accoutrements are at your service when Ever you Require them, tho I assure you I am Nothing Less than a Captain now myself, Mr. Dulaney having signed my Commission. I wish you a happy new year &.

Dear Sr. your friend & Obt. servant,

W. THOMPSON.

To Major Leven Powell, Loudoun County.

RICH. GRAHAM TO LEVEN POWELL.

DUMFRIES, Feby' 20, 1777.

Dear Sir,—

About 10 or 12 days ago Colo. Innis sent up a brace of Taylors to receive his Cloth. I sent one of them forward to Baltimore to hurry it down, but as yet have heard nothing of the Taylor or Cloth. Colo. Grayson sent an express the other day to Maj'r Ross about—it will certainly be here soon.

I have given Gibson and Leech receipts for 17 Bbs. Flour delivered by them. They take up your Sword belt. It has but one swivell.

By two Jersey Men that were here yesterday immediately from Camp we are informed that this day fortnight a party of ours took a Lieut. & 35 highlanders at a post the Enemy had, abt 7 miles from Brunswick on the Perth Amboy road—they say they saw the prisoners come to head Quarters. On Saturday following the day they left Camp, they say Lord Sterling had an engagement with a part of Cornwallace's Army within 5 miles of Brunswick on the Same road—killed 327 & took some prisoners with them & of only 12 men on our Side, they say they had this last Account from a Colonel of your Army who they saw at Trenton on his way to Phila.

Doct. Geo. Alexander was here yesterday, he is appointed Surgeon of your Regimt. & he says Genl. Washington writes that Col. Buckner had left the Camp, that he had Sent a party of Light Horse after him. They took him abt. 50 miles on his way to Virginia, he was tryed & condemned to be shot.

The Ships in the Bay have taken above 300 negroes from Gloucester, Lancaster & Northumberland—3 or 4 of those that Colo. Peyton bought are yet on board. I am really sorry for this loss. My Brother who came up there the night before last says that several of the people in Lancaster & Northumbd. have lost every Slave they were possess'd of. As Dunmore is not now with those Ships it appears to me that it must be the general plan of the Brittish Ministry to take all the American property they can lay hold of. If this is really the case, Brittish property will certainly be condemned that the sufferers here may be indemnified.

Jack Mercer has recruited his complement of men & gone up to join the 3d Regimt. Colo. Spotswood passed this yesterday, & Col' R. H. Meade & Ottway Bird this—this morning all for the Camp.

Doct. Draper is appointed a Captain of Horse; it seems his behaviour at Trenton was taken notice of by His Excellency, who seems to let nothing escape him. Proper rewards & proper punishments will most certainly make a good Army.

I am D. Sir

Your Most obt. Servt,

RICH. GRAHAM.

LOUDOUN COUNTY. (?), April 9, 1777.

Dear Sir,—

The bearer hereof (George Jarvis) being the only Soldier I have who has had the small pox I shall be much obliged to you if you'll give him an order to Dumfries for his Uniform, as I am convinced the appearance of our men in Dress will greatly help the recruiting Service, which seems to stand in need of every aid that can be desired.

I can truly assure you that I have used my utmost endeavors to enlist Men & have not been able as yet to get but four; the best of whom (Moses Cummins) has lately had the misfortune to chop off two Fingers of his left Hand, upon which he wants to return his Bounty but as I have not seen the Wound & from

the Accounts I have heard of it, have hopes it wil not disable him from the Service. I do not think proper to discharge him.

At present I dare not ride about the Country, as my wife is under inoculation for the small pox & indeed my success has been so bad, that I fear I have not the Requisite Qualifications for a Recruiting Officer, & if our Regiment is to be marched in separate Divisions as fast as they are made up, should take it as a favor if the Colo. would pack me off to the Camp, & let some more successful hand stay behind to recruit. I should be glad to know if I may be allowed to get what Men I can raise, inoculated in my own Neighborhood, on the best terms I can, as I should be found looking after them myself. I have heard of so many recruiting parties over the Ridge that I have not taken that tour myself. This country is full of young Men & I am in great hopes that some measures will be adopted to force them into the Country's Service.

Pray Dear Colonel favor me with your Instructions forwarded to Mr. Winn's Mill from whence they will soon reach the hand of Dr. Sir.

Your most obedt.

PETER GRANT.

P. S.—Mr. Willis Green has got bravely through the Small pox & in a very few days will be able to ride about—he has got nine Men.

P. G.

CHRISTOPHER GREENUP TO LEVEN POWELL.

May 2, 1777.

Sir,—

I have prevailed on Mr. Wilson to come out for the soldiers Cloaths, as I cou'd not make out to find for them, being obliged to have some men brought in under a Guard. I am afraid I shall hardly make out for blankets, I have some in the lower parish, and am agoing again immediately. I have been much hindered in getting in the Men. I have Seized two of my disputed ones (whom I knew I had a right to) and brought them

in under a Guard to Leesburg where they agreed to enlist willingly. I have heard nothing from Captain Willis and I think it not prudent to wait much longer for to take the small pox, as the Season is fast advancing. I saw a man yesterday who says he saw a man from Philadelphia, that brought an account of an action happening the 19th & 20th of last month, the particulars he cou'd not learn, only he saw some Prisoners come into Philadelphia. I heartily wish you safe thro' the small Pox with your Family.

I am Sir, Yr. very Hble Servt.,

CHRISTO. GREENUP.

May 2d, 1777.

To Colo. Leven Powell.

Car'd by Mr. Wilson.

GRANVILLE SMITH TO LEVEN POWELL.

WILLIAMSBURG, Augt. 28th, 1777.

COLO. POWELL:

Sir,—

When I saw you last in Williamsburg you was mentioning that the Men enlisted by Capt. Butler were to be turned over to me, provided he resigned. If this is the Case, I should be glad to be favoured with their names & where enlisted, in Order to collect and send them to Dumfries as soon as possible.—It has not been in my Power to recruit a Man since I saw you: there is a considerable Number of Militia in town at this Time, you may depend I shall use my utmost Endeavours to prevail on some to enter into yr. regular Service, tho' it is very uncertain as they seem much averse going to the Northward, and certain Officers have spoilt the recruiting Service by offering fifty Dollars a Man.—I shall continue in Town untill I receive further Orders.

I am, Sir, your most obt. hbl. Servt.

GRAN'. SMITH.

To Lieutt. Colo. Powell, Dumfries.

To the Care of Mr. Graham.

CRAVEN PEYTON TO LEVEN POWELL.

(Privately printed in 1877.)

Nov. 26th, 1777.

Dear Sir,—

I have just received your favor of the 30th Oct. and am glad to hear of your safe arrival at Headquarters with enjoyment of health, and am thankful to kind Providence therefor, and do earnestly pray God in His great goodness may continue it to you, and that He may defend and preserve you in every time of danger, cover your head in battle, succor and relieve you in all kinds of tribulation and distress, and in His own appointed time to bring you home again, there to live in peace under your own vine and fig tree.

I have the satisfaction to inform you that I saw Mrs. Powell yesterday at her own house, who with all the rest of your family is, through the mercy of God, in good health, as also that myself and family are the same.

I have seen Mr. Mercer's manager, who says that he looks to you for the rents of Mr. Mercer's old Quarter land where Burdine and some others lived; two years rents at £18.1.0 pr year, and that I may pay him cash for your Tobacco Rents at 30 shillings pr Hundred. I believe that is lower than it can be procured. Your Miller seems to raise some cavil about taking your Rye on the terms mentioned in Mr. Farrow's instructions; he says he did not agree to still it for two shillings pr Gall., that there was no price mentioned, only that he was to still you so much, and take the balance of the Rye at 4 shillings per Bushel, on hearing of which I refused to let the Rye be delivered, and at length came to this conclusion, that he should have the Rye upon the terms you left with Mr. Farrow, unless you gave other directions upon being acquainted therewith. The Horse you left on the road is brot' home and is well but very much reduced. Your waggoner is also safely returned.

I presume you know that the stone wall of your Mill house, the middle wall near the water wheel, is giving way. The Miller

proposes when he goes to repair it, to take down the stone wall and build it up with frame and plank, and that you approve of it; for my part, I confess myself ignorant in the matter.

I sent Capt. Thompson cash enough to make your balance up to 100 pounds, but have not as yet received any answer.— Please to give me as early intelligence concerning these things as you can, and pray don't omit writing to me every opportunity. I remain

Your Sincere and Humble Svt.,

CRAVEN PEYTON.

(On the back of this letter, in Col. Powell's handwriting, is the following, showing the number of Continental Troops, Nov., 1777.—ED.)

Major Genls.	Brigadiers.		
Sullivan.	{ Smallwood,	800	
	{ De Bore,	800	
		<hr/>	1,600
Green.	{ Muhlenburg,	600	
	{ Weadon,	1,000	
		<hr/>	1,600
Stirling.	{ Maxwell,	750	
	{ Conway,	900	
		<hr/>	1,650
Lincoln.	{ Wayne,	600	
	{ Col. Johnston,	600	
		<hr/>	1,200
Marquis	{ Woodford,	600	
	{ Scott,	800	
		<hr/>	1,400
McDougal.	{ Varnum,	1,100	
	{ Huntingdon,	900	
		<hr/>	2,000
Baron de Kalb.	{ Poor,	800	
	{ Patterson,	800	
		<hr/>	1,600
Arnold.	{ Glover,	800	
	{ Learned,	800	
		<hr/>	1,500
			<hr/>
North Carolina.	{ Brig. Gen. McIntosh,		12,650
	{ Col. Morgan,		1,000
			<hr/>
			250
			<hr/>
Artillery, Horse & in Hospital,			13,900
			<hr/>
			6,000
			<hr/>
			19,900

CHRISTOPHER GREENUP TO LEVEN POWELL.

LOUDOUN COUNTY, 23rd March, 1780.

Dr. Sir,—

Long before this reaches you I expect your Quarrentine at the Mohongahaly will be performed and you sailed to the Land of Hope. We are here in great doubts & anxieties of mind concerning the Preemption rights. Capt. Spurr will have three Warrants of mine, but I don't know how he will succeed; do let me have a little in that part of the world especially as my demand is exceeding modest as to Quantity. If he shou'd be disappointed & you shou'd have a Corner to dispense with by way of Charity do think of me; every obstacle that cou'd happen prevented my Joining in your Company at first, but no person under Heaven wou'd wish to be nearer you (except Mrs. Powell) than myself, but as you have so much on your Hands I can not expect you can think of a Person of my obscurity.

As to News we are very full now, but the truth of a good deal is doubted. It is said that Charlestown has surrendered to the english after a spirited resistance & that a great number of distinguished Tories contributed much to its overthrow. I wish it may not be too true.

We have a Vessel just arrived from Ireland commanded by Capt. Taylor, Cousin to Taylor in Leesburg, who confirms the account that the Irish had associated either for a free Trade or Independence. There is now about 50,000 Men enrolled to support their association under the Command of the Duke of Leinster & Lord Shannon. I have seen their spirited address to the King & wish I had it to enclose to you. Several of our Officers have been taken at a Cock fight near Powles Hook; this in all probability & the taking of the three Transports with light Dragoons on board you have already heard.

If anything shou'd turn up that may favour me, you will add to the many obligations you have already laid me under to hand

me a few lines by the first opportunity, but I can not promise you a just return because I fear it will never be in my power. Give my kind respects to Mr. Peyton, Colo. Triplett & Capt. Comb, to whom with yourself I sincerely wish Health, Happiness & success, and am Dear Sir

Yr. Most Hble Serv.

CHRISTO. GREENUP.

N. B.—Without a Nota bene all is nothing, well then I understand that a Town is to be laid off at Boonsborough, and that any Person who applies shall have a Lott laid off, and that you are one of the Trustees. If all this be true, please to set aside one convenient Lott for me, if consistent with your Powers. The purchase Money or other expense I will pay on demand, provided I am able, and I expect to improve it next Winter or before.

Enclosed I send you the last Baltimore Paper & a small Pamphlett lately published to amuse you a few moments.

CHRISTO. GREENUP.

To Colo. Leven Powell, Kentucky.

Car'd bye Mr. Stephens.

STEVENS THOMPSON MASON TO LEVEN POWELL.

RICHMOND, VA., April 4, 1783.

Dear Sir,—

Mr. Binns will scarce be prevailed upon to wait a single moment. So that I have but just time to inform you of my intention of taking a Poll for Loudoun. I am induced to this from a persuasion that matters of great importance will be agitated in our next Assembly. Should my Intention meet with your Approbation I must request the favour of you to assist Colo. Alexander, Messrs. Kinok & Daniel in the management of my Election, but should they not I shall not be displeased even with your opposition—except as I set a high Value upon

your Good Opinion and as I am convinced you will only support him you think worthy of the Office. Mr. Binns promises to furnish you with a copy of my address to the people which I must request you to communicate to such as you may fall in with. But I hope you will yourself make some allowance for its being wrote in the midst of Bustle and confusion.

I am Sir Your Obt. Servt.

STEP. THO'N. MASON.

Colo. Leven Powell, Loudoun Co.

JOHN MARSHALL TO LEVEN POWELL.

RICHMOND, Dec. 9th, '83.

Dear Sir,—

No step whatever has been taken in your suit against Burwell. If the matter is not arbitrated, will without question be tried next Court. I should be glad to see your depositions. If you have not a certain opportunity sooner, I shall be at Fauquier March Court, when I shall with pleasure take charge of them. Judgment is given against you at the motion of the Commonwealth. The Solicitor swore that you in conversation with him admitted the receipt of the money, the Court, however, have only given judgment for the value of the money when it was supposed to have passed into your hands, which I confess was more justice than I expected.—The Solicitor has written to you on the subject, and the costs of an execution may be saved.

Your Delegates, I presume, give you the news of the Assembly. Never could there have been less to give. This long session has not produced a single bill of Public importance, except that for the re-admission of Commutables. You will get the bill before you receive this. It ought to be perfect as it has twice passed the House. It fell the first time (after an immensity of labor and debate), a sacrifice to the difference of opinion subsisting in the House of Delegates and in the Senate with respect to a money bill. A bill for the regulation of elections and enforcing

the attendance of members is now on the Carpet, and will probably pass. It contains a good deal of necessary matter with some things that appear to me to be impracticable. It is surprising that Gentlemen of character cannot dismiss their private animosities, but will bring them in the Assembly.

Adieu my dear friend,

I am Yours Truly,

J. MARSHALL.

To Col. Leven Powell, Loudon.

STEVENS THOMPSON MASON TO LEVEN POWELL.

RICHMOND, Dec. 23, 1783.

Dear Sir,—

The gentleman who gives this a conveyance had intended to stay in Town till tomorrow which would have afforded me an opportunity of writing to you as fully as I wish, but as he has determined to set out immediately I must hurry over a few observations which may be of service to you in your present Office. For your Information I enclose you the Revenue Law the only one that is yet published on that subject; but another has passed, by which certificates for hemp and Flour delivered last summer agreeable to the Law then in force are now receivable in Taxes agreeable to that Law, and also warrants which are directed in future to be issued to Sheriffs and venire men summoned down to the General Court. This act is mentioned in the enclosed List, except where the certificates have been transferred from the original Holder or where they have been returned to the officer who gave them. This is one of the subjects of your Letter. The act concerning Sheriffs is to empower the County Courts to recommend where they have neglected to do it at the time prescribed by Law. Where they have done it at a time other than the Law directs to empower the Govr. to appoint, and directing that in future Sheriffs shall be nominated by the Court in June or July—it also enacts that if the Sheriffs

now and hereafter to be appointed shall refuse to give security for their collection he shall be superceded and the Govr. shall appoint the 2d person nominated by the Court and so on to the next magistrate in Commission. I moved for and carried a Resolution for having so many laws printed and delivered out in future as should furnish one to the Clerk, Sheriff and each acting Magistrate of every County or Corporation agreeable to the Instruction of my Constituents. With respect to the town of Lewisville the Assembly were induced to repeal the Law for establishing the Town from it being made appear that the Land on which it stood was the Property of a Mr. Campbell lately returned from captivity—more of this in my next. You will receive herewith the Citizen Bill which you have no doubt heard of. I shall at present only observe that I have never heard anything that could in the least induce me to give an opinion different from my vote on that occasion and that it is my earnest wish never to see a man who voted against it entrusted with power in the future as I believe the opposition to it originated in Toryism if not in something worse, tho many I believe were deluded into the vote they gave. I was highly insensed at the vote of that Day and moved for the Bill being set up at the Court Houses.

The Gentleman will not wait one moment longer so God bless you.

STEP. THO'N. MASON.

Colo. Leven Powell, Loudoun County.

CHRISTOPHER GREENUP TO LEVEN POWELL.

CRAB ORCHARD, (KENTUCKY), 8th August, 1783.

Dear Colo.,—

I wrote you in July last which I hope you have rec'd, since which several other Tribes of Indians have come in for Peace and brought in a few Prisoners. Notwithstanding three persons have lately been murdered by them, one of which

was Capt. James Shelby, and several Horses have been stolen from Astill's station. This is supposed to have been done by a party of Chichamauga's who I believe have been Skulking about the Frontiers of Lincoln County ever since early in the spring.

Surveying still goes on but is somewhat retarded by a report industriously circulated by the discontented, that the State War-rants are all broke.

In Jefferson they have proceeded to improve the Surveyed Lands & to apportion out 400 acres to the Owners and the residue in the like quantities for other Settlers. The Quo'he's (Cohees) are in general against the Virginia Rights & had they strength their will is good to entirely extirpate the Virginians from the Country.

North Carolina has opened an Office for granting the Cumberland Lands at £7.10 Va. Money per Hundred Acres as well to settlers as others, and the poor People there I fear will not be able to secure any Land tho' they have defended the Country and suffered all inconceivable Hardships; near half the first settlers have been murdered by the Indians & their stocks entirely destroyed. We have excellent Crops & the greatest plenty of Provisions.

My Compliments to your family & am my Dear Sir with the most perfect respect,

Yr. Obedt. Hble. Servt.

CHRISTO. GREENUP.

N. B.—For the want of Paper permit me to write a few lines to Capt. Harrison in the last page of yrs.

CAPT. VALENTINE HARRISON:

Sir,—

I expect by this time you can spare a moment from your agreeable pleasures, to read a hasty scrawl from a Brother-sufferer. As to general News I must refer you to Colo. Powell. Our Domestick or political News is as follows, Lincoln County is divided into two Battalions. John Logan, Colo. John Edwards, Lieut. Colo. and old Adams at paint luk (?) Maj'r of the

first. Gabriel Maddison, Colo. John Smith, Lieut. Colo. & one Crockett Maj'r of the second; with a number of inferior Officers. Petitions are on foot for dividing the Counties of Lincoln & Jefferson & Ned Quirk runaway with his Wife's Sister. No marriages or Deaths of consequence. No Indians in Fayette since March that we know of. Willis Green, Clerk of Lincoln in the room of Wm. May who has resigned.

I'll quit this nonsense & inform you that I am in good health & have plenty of Surveying & Law on hand. I wish you everything that is good & am Sr.

Yr. friend & Hble Servt.

CHRISTO GREENUP.

Colo. Leven Powell, Loudoun County.

Capt. Lewis.

CHRISTOPHER GREENUP TO LEVEN POWELL.

LEXINGTON, 17th Sept., 1784.

My Dear Colonel,—I am just informed by Capt. Rust that he is setting off this day for Fauquier. I have not time nor convenience of writing you fully therefore you must only look upon this as a small token of Remembrance. I rec'd your favour by Mr. Harrison, but previous to its coming to hand I had a House erected on your Lott in Order to save it. Except the chimney, the River has chiefly been over the Quarry which has prevented the Chimney from being finished. I am under no apprehensions from Campbell's Claim. I have not been at Louisville since May last & can't tell well how Matters go on there. I inclosed your Execution &c to Colo. Pope (the Sheriff of Jefferson) with directions to inform me concerning its Execution, but I can never hear anything from him. No Law proceedings are carried on here occasioned by the Savages Murdering Walker Daniel Esqr. an Atto. Genl. & the only Lawyer (besides myself in this county—fortunately for me as I now think) that I was confined by a dangerous inflammation in my Thumb for near two months;

or I shou'd have been with him and probably shared this same fate, as did a gentleman, one Mr. Heitly who was along, and the Clerk of Jefferson Wounded. The Savages have murdered upwards of a Dozen in the Course of the Spring, and taken some prisoners; their signs are frequently seen and a number of Horses stolen. I shall go to Jefferson the last of this month and will write you about what I shall find to be done. I saw Mr. Hitt a few Weeks ago. *All Well.* I wrote to Jefferson concerning Mr. Bullets Land, and find it Registered but whether it is any part in my amount I know not. I must stop! Adieu my Dear Colonel & blieve me to be with every Sentiment of respect

Yr. Obed. & Hble. Servt.

CHRISTO GREENUP.

Qae.—If the Lands Ceded to Congress wou'd be a speculation worth attending to.

Colo. Powell, Loudoun County.

CUTHBERT HARRISON TO LEVEN POWELL.

WHEELING, 22d June, 1785.

Dr. Sir,—

I fear I shall want credit with you when I declare that the Constant Hurry & perturbation I have been in since I left Berklely has not given me time before this to Write you & now can give but a very imperfect account of our peregrination, which has been exceedingly Tedious. On the 20th of May after several delays in Berkeley & my being obliged to return from there to Loudoun, & recovering some of our most valuable — (illegible) which had been stole from us, we left that county & thro' Continual Rains & the Worst of Roads we traveled till the 12th of June when we reached Spears on the Monongahala 14 miles below Redstone Where our Boats lay. On the 13th, we went up the River to Redstone, on the 14th moved them down to Spear's, on the 15th Loaded, & on the 16th proceeded down the River—the water so low as to Oblige us to clear away the

Stones & open a passage to our Boats over the Fish dams & Biffles. On Saturday the 18th at 4 O'clock we landed at Fort Pitt, & on Sunday the 19th at 12 o'clock left that place. From there we have found the Water tolerably good & now have a flow of it from the Continual Rains we have had for some days pass'd. At this place we have halted to take in our Horses which we sent across by Land. The accounts from the Indians are unfavourable; they have fired on some Boats on their Way down before us, & are determined to drive the Land Lobbers & Hunters from their side the River, several of whom they have killed, & on which business Colo. Gibson informs me there are now large parties out. Our families, thank Heaven, are well, tho' they have been exposed to excessive fatigue & a great deal of Wet Weather. Our wives prove the greatest of Heroines, & happy they do so. We have no company nor Boats with us but our own, except few passengers & those with our own hands not enough to man our Boats. On the 21st about 5 miles below Fort McIntosh we passed a party of Indians but were too far from them for them to fire on us, had they been inclined to do so. Tomorrow morning I expect we shall leave this place & if we are happy enough to arrive safe at the Kentucky you may expect shortly after to hear from me. I put a Valuable Horse into the hands of Thomas Grigg to be delivered to you, & I hope the negro Fellow is before this in your possession. I am very anxious to have the Negro Woman I left behind contrived out to me. Must beg the favr. of your taking the first safe Oportunity to do it. The hurry we are in prevents my Brother's Writing you as we are Obliged to divide the business. With the warmest Wishes for the health & happiness of yourselves & families, I am Dear Gentlemen Your Sincerely affectionate & obed Servt.

CUTHB. HARRISON.

To Colos. Powell & Triplett.

Colo. Powell will please send this after Reading to Colo. Triplett.

GEORGE WASHINGTON TO LEVEN POWELL.

(Printed privately in 1877.)

MOUNT VERNON, 30th Sept., 1786.

Dear Sir,—

I have received your favor of the 12th inst. Some mistake must have happened in delivering my message to your agent respecting the Timothy seed, I never wished to decline taking the whole; having saved 14 or 15 Bushels of seed myself more than I expected to do, less than I desired you to procure for me would have sufficed, say half; but I am equally willing & ready to take the whole, if it is provided. Be it more or less, I should be glad to receive it soon, that having it in possession I may use it as occasion presents.

I will take 100 Bushels of Buckwheat, the new crop I shall prefer, as it is for seed next year. This also I should be glad to have in my own possession for the reason above.—Not being much acquainted with the culture of this crop, you would do me a favor, by informing me of the best time or times for sowing it, for the different uses it is applied, how much seed is usually given to the acre & what cultivation it generally receives.

If you will accompany the seed with an acct. of the cost, I will pay the amount to your agent.

With much esteem & regard, I am Dr. Sir,

Yr. Obedt. & Hble. Servt.

GO. WASHINGTON.

Colo. Leven Powell, Loudoun County.

CUTHBERT HARRISON TO LEVEN POWELL.

DANVILLE (KY.), 19, January, 1787.

Dear Sir,—

Your favor of the 27th September came safe to hand enclosing the Commission for taking Deposition, which I

have done & now transmit you by Maj'r Crohon, as I find it impossible to come in at this time myself from a want of Money, however hope that every purpose will be answered by the Depositions sent. As to what you mention of Swart's (?) evidence tis impossible he can give in any such as —— (torn) nor can Mrs. Quinn possibly swear that she was ever called in on such an occasion. I wrote you some time ago requesting that James Craig & Samuel Canby who both knew the Negro might might be summoned on as witnesses.

I am greatly distressed on account of the Debt I owe Herbert; if that comes gainst me in this country I am ruined, as the scarcity of cash here is so great that every Negro I have would not sell for that sum; but you may rely on it that I will if I live be in this Spring & pay the debt before I leave the settlement.

The Convention of our District met at this place the day before yesterday and in the course of a very few days will our Fate be determined as to a separation. Our Minority is very small there not being more than Nine or Ten Members opposed to the Measure. A Number and Genl. Wilkinson at their Head are for a separation but on more equitable terms, which they doubt not of obtaining from the Assembly. We have as yet done nothing more than choose a President which proved a matter of difficulty. Cols. Marshall and Innes were Nominated and twice battled for; the House divided each time, at length after much contest Colo. Mason (?) was Elected to preside. I will give you an account of our further determination by the first opportunity. My Brother's Family & my own I left in good health. Colo. Crohan waits for me so I must Conclude. Please present my affec. Compliments to my sister and Family and believe me with great Esteem Dr Sir,

Yr. Mo. Obed. Servt.

CUTHT. HARRISON.

Colo. Leven Powell, Loudoun County.

LETTERS BEARING ON THE WAR OF 1812.*

NATHANIEL MACON TO JOSEPH H. NICHOLSON.¹

WASHINGTON, April 30, 1812.

Sir,—

Today is the great sheep shearing at Arlington; I am invited and I believe that I shall go. So much for the news in the neighborhood. The House of Representatives seem determined not to adjourn for some time. How long we are to stay no man can tell; nor what we shall do no man can guess. I incline to think that the intention of staying is to grant letters of marque and reprisal, and to authorize the issuing of commissions to privateers. Necessity will prevent any invasion of Canada until the regular troops can be raised and assembled.

The House of Representatives is now thin and the members are daily leaving the city.

I am yours truly,

NATHANIEL MACON.

NATHANIEL MACON TO JOSEPH H. NICHOLSON.

WASHINGTON, Nov. 7, 1812.

Sir,—

Mr. Adams long since wrote to his friend Pinckney, that they had fallen on evil times, and we certainly live in strange

*From Nathaniel Macon papers, in possession of Judge A. B. Hagner, of Washington, and of Mrs. W. K. Martin, of Richmond. The Ritchie letters are taken from a collection owned by Judge Brockenbrough, of Tappahannock.

(1) A member of Congress, 1801-1806; Justice of the Maryland Court of Appeals, and a life-long friend of Macon's. Nicholson belonged to the coterie of politicians, of which Randolph, Macon, and Richard Stanford, of North Carolina, were members. They were often called the Quids.—ED.

ones. Mr. Adams is the leading candidate on the republican ticket for the election of P. & V. P. and D. W. Clinton the federal candidate for the presidency. Mr. A. was always in my opinion an honest man, but still that does not change the strange appearance, he and Mr. Clinton make in the present contest for the Presidency.

Tell Mrs. N. and the children, Howd'ye, Howd'ye; I only write in the hope of getting an answer,

Yours ever

NATHANIEL MACON.

THOMAS RITCHIE TO ARCHIBALD RITCHIE.

RICHMOND, VA., Aug. 31st, 1813.

My dear Brother,—

It gave me great pleasure to day to learn that Mr. Muse had left you in such good health after your late campaign to Norfolk. I had frequently intended to have addressed you at H. Quarters and indeed the pen was more than once in my hand for that purpose, but I found on cudgelling my brains for something to say that I had so little interesting to say which the papers had not said before me, that I was induced to give over the attempt. You have now however returned from the theatre of labour, if not of danger, crowned with the thanks and the approbation of your country, and there is no one who is not satisfied that you would have encountered the enemy with the same alacrity you have displayed in meeting the drudgery and privations of a military life. You will find from the Papers of to-day, that the Executive are organizing a fresh detachment for the protection of Norfolk and that Frank Preston & Richard E. Parker are the Colonels destined to take post at that important position. You best know the degree of preparation they have made to repel any future attempt on that Post.

Every exertion seems to be making to bring the Northern Campaign to an auspicious Issue. Pride alone would induce the

Secretary at War to do something after he had proceeded so far as to suspend his functions at the Seat of Government to transfer all his attention to the Seat of War. A little scrap of good news is at this moment of gloom & anxiety very exhilarating and the last night's Mail which brought us the intelligence of our Indians slaying and taking prisoners 87 Indians of the Enemy's camp and of Com. Chauncey reappearing upon the Lake with a new sch'r of 24 guns gave a thrill of pleasure to my nerves from which I have not yet recovered. I have great and sanguine hopes of the issue of the approaching Contest. Man to man and gun to gun and I think we can beat them. The generous principles which animate the breasts of freemen contending for their country, her rights and her independence, appear to me to be too powerful for the mercenary principles of hired slaves. If our officers are united and are taught to acquire as much prudence and military skill as they possess of gallantry and Enterprise, the issue would be certain. A few weeks will however decide the contest, and leave us full of spirits in the Possession of Montreal, or languishing in disappointment on the confines of the U. States. Every friend of his country can have but one wish on this momentous Question.

If I were in y'r Place I would make Tactics my study & my Pride. You have seen a good deal of Service at Norfolk; you occupy already an important station in the Militia, and may aspire to a more difficult and responsible Post. Few things are certainly worthy of more regret in our republican institutions than the vast number of Militia Officers who are utterly unworthy of the Commissions with which they have been honored. If we wish to preserve the reputation of our Militia by improving them into good Soldiers nothing is so essential as to be commanded by good officers.

Business is extremely dull in this city. Few things seem to interest our monied men except the buying and selling of Town Lots. Property has attained a value which the oldest of our Inhabitants confess they never would have dreamt of its attain-

ing. \$4000 for a half acre unimproved Lot on the Hill is nothing. Many lots, you know, have been taken up for which no tickets have been found. This circumstance & the great rise of the Value of Property have suggested an idea to me which I have for a long time determined to lay before you. Our respected Father was in the habit of visiting Williamsburg which at that day was the great fair of men of business. I am told that Lots in this City used to be sold there for little or nothing and I know one of the prettiest Lots on the Hill was sold in the Old Raleigh for a Bowl of Punch. Now, is it not probable that my father took some of these original Tickets or bought some of the Lots? If he did is it not probable that these Tickets or some Evidences of them are *even now* to be found in his Papers? Will you attend to this? it may be important to us. In the 1st place where are those papers? I know there were several interesting Papers in the Bookcase (my brother William's), which stood in the upper room on the L. wing of the House. Where are those Papers now? Again, where are the Papers which formerly were deposited in Flour Barrels & Old Trunks in the room next to the Nursery? And where are all the Papers which were once sent Mr. Robert Brockenbrough to settle at Fredericksburg.

I wish you would write me as soon as convenient on this subject—And put me on the track of those papers. I will take all the trouble of getting them together and examining them if there be any reason to believe they will reward the search.

My wife does not enjoy very good health. She is happy however, in having 3 healthy children. She wishes to be particularly remembered to my sister and her children. And believe me my dear Brother to be

Most affectionately yours

THOMAS RITCHIE.

August 31st, 1813.

I hear now and then from my brother John. He was about a week ago, at Ft. Washington, the command of which exclusively devolved on him.

NATHANIEL MACON TO JOSEPH H. NICHOLSON.

WASHINGTON, 8 Feb. 1814.

Sir,—

The mind of man, is always puzzling itself to account for the motives by which others arrive at certain conclusions, which induce them to do certain acts; after puzzling for several thousand years, the world is about in the same state as when it first began to puzzle itself with the enquiry. You will no doubt think it strange that I should begin in this strange way. The reason is I am puzzled as all the rest of the human race have been.

I have been lead to these reflections by the following information: Gallatin is this morning nominated a minister to treat at Gottenburg; making in the whole five if he should be approved, to meet the British negotiator. I am sure though I have no knowledge as to the fact that it is done solely to save Gallatin's feelings & to have the benefit of his talents if a commercial treaty should be formed, but considering the whole view of the case it has a puzzling aspect to account why he was not nominated when Clay & others were nominated. But enough of this, I am politically sick.

G. W. Campbell is nominated Secretary of the the Treasury. He will be much missed in the Senate. Indeed I am at a loss to guess, who now will be the defender of the administration in the Senate: Crawford sent to France, Campbell to the Treasury. I do not complain that Campbell is unfit & indeed if the choice of the secretary must be made out of Cong. I do not know that a better could be made, really it seems as if Congress was to be robbed by the executive of its best friends and protectors.

Rush, the Comptroller, is nominated attorney General. I suppose Pinckney has resigned.

I heard the above news in my seat from a member of the House, and I give it to you, without vouching for the facts, though I believe them.

Campbell, removed must make the majority less certain in the Senate.

God bless you.

NATH. MACON.

J. H. N. Balt.

NATHANIEL MACON TO JOSEPH H. NICHOLSON.

WASHINGTON, 16 April, 1814.

Sir,—

In my letter yesterday I forgot to say a word about the armistice. I believe that one is or has been the subject of a correspondence between the administration and Genl Prevost. It was brought about in this way. Mr. Winter a federal member from Massachusetts received a letter from some respectable man, who had seen Adjutant Genl. Bains, & Bains informed him, that Prevost wishes an armistice, this letter was sent to the administration and Genl. Prevost denied Baines had authority for what he said, but was willing to enter into one. I believe that the admiral on the station is to be or has been consulted—all this I get from the federals, who know more of the cabinet doings than I do: One of them told me, that if the admiral consented every thing was arranged: The report is that Barclay has been at Bladensburg, I only mention as report, & that he is now gone to see the admiral.

Genl. Jackson of Tennessee has again entirely defeated the Indians, probably conquered a peace in that quarter.

I am yrs sincerely

J. H. N. Balt.

NATHL MACON.

WASHINGTON, 5 Novr. 1814.

Sir,—

This being Saturday, I write only to tell you, that the letter which you wrote me, on the 3 instant has been received.

Izard will I fear loose reputation, whether rightfully or wrongfully cannot now be ascertained; an officer that retreats after another has been victorious with the same troops generally loses reputation by the retreat: If Izard loses Brown will gain, the loss & gain to them will be equal.

I am apprehensive, that the withdrawing three distinguished generals from the army in Canada, will not be approved by the nation or the army; If nothing be done, it will be charged to that, & the administration as well as the commanding general will loose thereby.

With great industry we do nothing. The feds have made a few bitter speeches, which ought to have been answered, why they were not is for others to say. I have not been in a condition to do it myself, or would have attempted it, although in good health, my insides are I think wearing out, and that fast. A short speech on the removal of the seat of govt. made me hoarse, and gave me a pain in the throat.

Remember me to Mrs. N., tell the children I love them, and believe me,

Yrs. very truly,

N. M.

J. H. N.

RICHMOND, Dec. 15, 1814.

MR. CHAS. WORTHAM:¹

Dear Sir,—

Yours of the 9th Inst. I duly recd.—Our Assembly is about to lay a tax on domestic salt, added to which there

¹A grocer in Caroline county, Va., ancestor of an influential family in Virginia.

appears to be some prospect of peace. Under all circumstances I think it will be most prudent to suspend our views as to making salt for the present, at least until we can hear what our commissioners at Ghent are likely to do. Also, to know first what duty our Assembly will lay on salt, for it now appears certain that they will lay a duty on salt. 9d per Bushel is contemplated. Should our Assembly lay a duty on salt (of which I have no doubt) and no duty be laid on it by the Assembly of North Carolina, it may be best to establish works in No. Carolina, that is provided our commissioners return from Europe without making peace,—for if there is a peace soon, the cost of the establishment will be lost. I have written Dr. James Booker and advised him also to suspend his views as to the salt business at present. I suppose we shall know by the 1st of Jany. or thereabouts, whether there will be a prospect of peace soon. Added to what I have said, there is a prospect of salt being much lower, by the spring, at any rate.

Yrs. Very Respectfully,

WM. SHEPARD.²

P. S.—I have recd. a letter from Mr. Scholfield since you were here, tho. it was respecting some salt kettles was to send him, he said nothing of anything relating to you, Mr. Booker and myself. In haste.

What I have said about the salt making business is from mature deliberation. I really think it best to know certain what duty will be laid by our Assembly, also to know what our commissioners will do, as it appears at present that the prospects of peace are better than a little while back.

*Mr. Chas. Wortham, Junr.,
White Chimneys, in Caroline.*

²A prominent Richmond merchant.

LETTERS OF THOMAS RITCHIE—GLIMPSES OF THE
YEAR 1830.

THOMAS RITCHIE TO ARCHIBALD RITCHIE.

THURSDAY, June 8th, 1830.

My dear Brother,

I was much disappointed in receiving your dispatches instead of seeing you in person. We had been expecting you for ten days past and though we had rec'd no message from you, announcing my sister's coming with you yet we warmly indulged such a hope. I am sorry that you did not come and still more for the cause of your detention—but we look forward with certainty to your promised visit in July. Be so good as to drop me a line as soon as you have ascertained the period of your visit.

I was unable to obtain the A. General's Certificate until after 3 o'clock yesterday, for I was so much engaged that I could not go upon the Street—and this forenoon I have settled the Acct at the Auditor's office. The treasurer has given me a check for \$263.80 which I have placed, agreeable to your instruction, to your credit upon Acct. I shall not be able to send Davy off until between 2 and 3 o'clock this evening, and he will reach Eliza's tonight and you tomorrow pretty early.

I have sent you the two last Enquirers in which you will find all the floating news of the day. I have this day had a long Conversation with Stevenson and a pretty long one with McDuffie. I infer from the remarks and tone of the latter that the storm in S. Carolina is blowing over—that the proceedings of Congress for the last few days previous to adjournment will have the effect of tranquilizing the excited politicians and of putting aside the measure of *Nullification*. I told him very plainly that in my opinion Virginia would not co-operate in such a measure. He said that the most the politicians of S. C. had thought of

doing was to declare the Tariff null and void by a *Convention* and then leaving it to the Juries to refuse giving judgment on the *Revenue Bonds*. He seemed to think that even this course would soon be abandoned, though he said he had no idea that Congress, organized as it now was, would modify the Tariff so as to make it acceptable or tolerable to the State. I suggested to him that the measure might be got rid of by breaking in pieces the fabrication which had carried it through—that this was to be done by degrees and required time—that the next winter we might remove the duty on Sugar and thus lessen the attachment of Louisiana to the Tariff—that by reducing the duty on iron and wool we might strike N. Jersey and N. York from the Tariff States, and then we might get back to old times. He, however, contended that a reduction on Sugar would be lost by a majority of 30 votes—and that the various interests which were involved would stick together, and defeat any gradual or detached attack. I, confess, upon the whole his tone is much softened down, and that I have almost lost all fears of a *Storm from the South*.

Our friends are of course in high spirits from Gen. Jackson's Message on the Maysville Bill. It does not exactly come up to our Virginia doctrine, but it does a great deal, by arresting those mad and corrupting local appropriations for the benefit of this or that sectional improvement which was wasting the public funds and bribing the Members of Congress out of their Constitutional principles. When I hear of the way in which the Old Hero was beset by members from the West telling him if he repealed the Maysville Bill he and they too were gone then—that it would scatter dissatisfaction through most of their districts. When I recollect how many interests he was going against in taking his ground, I am more and more impressed with the great moral courage he has exhibited. I understand Eaton and Ingham were for his signing the bill—Van Buren and Branch against it. On Thursday morning after sitting up all night, the President was very much nettled in their forcing the *Light House* and *Har-*

bor bill upon him, filled with God knows how many little appropriations for roads, canals, etc, etc, in order to force them all down his throat or by his rejecting them, rousing up so many various Interests *against* him. He exclaimed with some warmth: "Let them come on, all—I am ready for them." That bill, you know he kept by him on Monday morning and refused to pass upon. Webster was very anxious to continue Congress together in order to force him to act, and then get materials against him for the Summer Campaign. The obligations we are under to Old Hickory for stepping in at this crisis and saving the Constitution almost at its last gasp, are great indeed.

Upon the other great question (The West India Trade) I cannot give you satisfactory information. Most of the Members of Congress I have seen or heard from do not seem to augur much from McLane's negotiation. At least, so I understand them to say from the papers that were confidentially laid before them. On the other hand a private letter or two has been received perhaps by the President from Mr. McLane which holds out more encouraging prospects. I know the President told Gov. Duval, near 3 weeks ago, that he was very anxious for the arrival of the Packet as he was in hopes she would bring a treaty, and would require the action of Congress. Yet two or three Packets have come and no treaty—but the negotiations are still going on. I do not despair, myself, of a Treaty upon the information I have had, though of course I can make up no positive opinion.

This is a matter deeply interesting to you farmers, and just at this time too would have much effect on the coming in harvest. I wish to God, I could have the pleasure of announcing the opening of the W. Indian ports. No news could be more agreeable to the Public.

All my family is well except Bell who is now with me, since her illness she has not been well, and is still ailing. V. Harrison is at Brandon. preparing for ——— (illegible)

My wife is well. Mary is at home though she has an idea of going to the Virginia Springs. William is at the University, and

will try to graduate this first session in the Classics. Last week he pressed through his examinations in the Latin and this week will do so in the Greek. The other children are at home.

My own confinement is nearly as great as ever, though after the terrible pressure of the Convention etc etc, on me, I have continued to mix more with Company and enjoy it a good deal. The low price of produce abridging collections and the burden of paying the heavy debt of \$2000 to Col. Gooch, \$2000 in April and \$2000 in October following and the heavy expenses of the Convention (\$1600 to the Reporters) keep me very heavily under the hatches. I hope however to work through, though with much pain and inconvenience. My health is pretty much as usual.

Give my warmest love to my Sister and the Girls with their families and believe me.

Most affectionately,

Your brother,
THOS. RITCHIE.

Archibald Ritchie Esq,

THOMAS TO ARCHIBALD RITCHIE.

RICHMOND, Dec. 28, 1830.

My dear Brother,

Opie called upon me this morning to enquire what had become of a Letter and draft he had left with me last Winter for you. A letter from Connell to him produced the application. I told him —— (illegible) was in my room, but that I presumed the first draft had been long since paid and that it was of no amt. of consequence to you now to have the Duplicate. I showed him both the letter and its endorsement; and we agreed that it was best in every point of view to put you in possession of both.

I really trust my Dr Brother that no inconvenience has accrued from this apparent remissness on my part. Opie put them into

y hands the last winter in the very height of all the confusions and cares of the Convention. It was a scene almost without example in my life. I threw it into my hat with my other papers and it was overlooked for many months. At length on looking to the letter I found it speaking of a duplicate. I concluded at once that the *first* draft had been paid—and that it would therefore be time enough to give you the paper when I should see you over here. Again and again I expected to see you and finally the paper was lost sight of, as a thing of little or no consequence.

Do examine and let me know whether the 1st draft has been paid and what you will now do with this one. So that Opie or I may know what to write to Connell.

Lyddill is the Trustee in my behalf with Thos. ——— (illegible) and though I have written him letter after letter about the business, I cannot get a line from him in return. P———— (illegible) now owes me about \$3000 which sum would help very much to put me at Ease.

I have been struggling very hard to pay up my \$10,000 to Gooch. I have met the notes at maturity—\$6000 now paid—and \$2000 next Spring and \$2000 in the Fall. If I live it will be for my good—if I die it will be worse for my family. If I live, I shall be perfectly content with the bargain I have made. I work as hard as ever, at the same time I see a great deal more of Society. I have a competent reporter from N. Y. to take down the proceedings of the House and saves me much trouble—and I don't pay him \$100 a week as I did Stansbury—but 35. The Circulation of the Enquirer is increasing rapidly. Since the meeting of Legislature about 200 or more. The Convention question is all quiet and our Politics smooother than last winter.

* * * * Belle has been with me several weeks and Mary. William is at the University—the rest are also here—and well.

You must certainly bring my sister to see us in the Spring when we will go down to Brandon where I promise you will see as fine a fellow as is in the State and one of the best managed

farms in it. I am sure you will like both. If you will come over I will promise to return your visit in the course of the summer even if I spend but three days with you.

The Legislature have not yet got into the thick of their Business. The Judiciary system not concocted. Indeed I believe they are getting clear of their smaller business to prepare for this heavy work. I have heard no opinion expressed of the course that they will take. There begins to be some anxiety shown about the 3 Councillors—Daniel, Wilson and Pendleton, of the old ones, the rest spoken of—Wm Roane is a candidate and will get a respectable, if not successful vote—P. P. Barbour, St. George Tucker and R. Stanard spoken of for the Court of Appeals. Stanard has resigned or will soon resign his office of Attorney of the U. S. Indeed I had an application from R. S. Scott last night for a letter to Washington recommending him to fill the *vacancy*—but I declined as I have uniformly done every other—I can't say how many—as I have determined to ask nothing from this administration for myself or any of my friends. It was with the greatest pain I could not give your Protege a letter.

I trust you will be a Candidate at the next Spring Election. We will try to make the session agreeable to you if it be the will of the good people of Essex to send you here. I have no doubt they will do so.

I have little news from Washington. Clay's friends will try to bother Old Hickory by sending him a mass of Bills about Internal Improvements. I understand little is expected to be done till the middle of Jany. on account of Peck's Impeachment and some of them think if they don't do a great deal this session, it will not be much regretted.

With all our most affectionate recollections to my Sister and the Girls and their families, I am, my Dr. Brother,

Ever yours,

THOS. RITCHIE.

Col. A. Ritchie
Essex

THOMAS TO ARCHIBALD RITCHIE.

Undated.

My dear Brother,

Dr. Brockenbrough furnishes me the first favorable copy (opportunity) I have met with since Archy's sale to remit the proceeds. You will be mortified that they are no more; and so am I.

I put him into the hands of Mgr. Garble to sell who has done his best but unfortunately a few days before you sent him over two vessels had sailed for N. Orleans freighted with negroes and that mode of disposing of him was lost. On Wednesday after Mr. Noel's departure Garble put him up, but Archy had lost one of the joints of the forefinger of his right hand which the negro buyer said disqualified him for picking cotton and he would bid no more than \$300. On the Saturday following G. tried in another sale and the most he could get was \$350 which by expenses as per bill is reduced to \$331.75. Dr. B. will be so kind as to take charge of it for you.

I have scarcely time to add that Archibald is a fine boy and behaves as yet to my entire satisfaction. I am now just about to have a little time to look into his books with him, to try him and spur him up. He sends you a letter which I fear is like one of my last year's newspapers; so old that it contains no news, for the Dr. has been so long moving that A's letter has got somewhat stale by the delay.

Isabella and all my children are well. I am delighted to hear you are riding about.

With the warmest love to all

Yrs ever

THOS. RITCHIE.

Tuesday Morning.

THOMAS RITCHIE TO MRS. ARCHIBALD RITCHIE.

RICHMOND, Jan. 11, 1831. (?)

My dearest Sister,

I need not describe to you the acute pain which the news of the Death of my dear brother gave me. Bound to him by the tenderest ties for fifty years—for so many years my only brother, and being deeply impressed with the strongest sense of his admirable character—I could not learn the confirmation of my fears without the greatest regret. I sympathize with you my dearest Sister in the irreparable loss you have sustained. He was worthy of your tenderest affections and he was entirely devoted to you. Much of our conversation when we saw each other turned upon you and yours.

My dearest wife who has so often spoken of you both since her return from the Springs joins me in the sincerest sentiments of condolence. She sends the warmest love to you and the Girls and we both flatter ourselves that we shall have the satisfaction of seeing you under our roof in the course of this year.

Believe me my dear Sister that it would have given me a melancholy satisfaction to be with you to-morrow to pay my last respect at the grave of my Brother. But independently of my numerous engagements at this season of the year my wife has been very unwell herself for the last three days—and the travelling besides is intolerably bad.

I fervently hope that you will be able to get one of the girls with her husband to live with you and soothe your remaining days. Present me most affectionately to them all and receive for yourself the kindest wishes of my dear wife and all our children.

Most affectionately,

Your dear Brother

THOMAS RITCHIE

Friday Night.

THE JOHN P. BRANCH HISTORICAL PAPERS

OF

RANDOLPH-MACON COLLEGE

PUBLISHED ANNUALLY
BY THE
DEPARTMENT OF HISTORY

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The library of a Southern college is usually so inadequate that such work as this cannot be done without considerable effort on the part of the student. But this very effort, this search for the sources of our history, is highly educative. Thus far the effect of setting some four or five competitors to work looking up their facts has been more than successful. Great interest has been aroused; and no small amount of experience has been acquired. The present year's work, which will be published next year, has been exceptionally well done; it embraces studies of the lives of George Mason,

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George C. Dromgoole and Benjamin W. Leigh. The Virginia State Library has been used constantly, and a very considerable amount of information has been gathered.

But, notwithstanding the good which comes from searching here and there for the materials of Virginia history, the greatest need of Randolph-Macon College, so far, at least, as history is concerned, is a good library. Any friend of the study and teaching of history can render valuable service to the cause by lending a hand in the building up of a library, such, for example, as Mr. J. B. Duke has given Trinity College, North Carolina.

Besides the regular student work of the Papers, the editor considers himself fortunate in getting a life-sketch of Captain Richard Irby by Bishop Granbery. Captain Irby's life was devoted to the welfare of Randolph-Macon College, and for a number of years his special interest was enlisted in the cause of history. It was largely through his active influence that the chair of History was established in 1900; and he was to the end of his life a sympathetic helper in anything that tended to develop that department, so that a brief review of his life is doubly fitting in the Branch Historical Papers. Bishop Granbery, an intimate friend of the Captain's during the greater portion of their lives, is best qualified to write this sketch, and it is with much pleasure that this piece of work is now presented to the reader. The editor wishes to take this means of thanking Bishop Granbery for his kindly assistance.

The group of Powell letters, treating of various topics during a very exciting period of American history, will possess considerable interest, and some real value for the student of Virginia and American history. It was the great contest between Jefferson and Hamilton in which Powell was so vitally interested. Some light, too, is thrown on the early settlement of Kentucky and West Virginia. The half dozen Monroe letters are not without considerable interest, treating, as they do, of the French spoliation claims.

Altogether, there seems to be some good resulting from this undertaking on the part of the department of history, and to this end the earnest coöperation of all who feel the importance of historical study and investigation in Virginia is respectfully solicited.

WILLIAM E. DODD, *Editor.*

LIFE SKETCH OF CAPTAIN RICHARD IRBY.

BY BISHOP J. C. GRANBERY.

THERE has passed from us a man who deserves a permanent place in the records of Randolph-Macon College, and in the hearts of her sons, and of the wider circle of her patrons and friends. Richard Irby was for four years a student, for fifty years a trustee, for sixteen years Secretary and Treasurer of this institution. *Alma mater* was to him not an empty title of fancy and usage, but was full of true and deep significance. She was a large factor in the development and furnishing of his mind, the formation of his character, and the direction of his life. He most gladly and gratefully acknowledged this great debt, not in words only, but also in affection, and in faithful and fruitful service, both private and official. Yet this obligation and service were only a single phase of a many-sided and symmetrical life, into which entered many formative influences, and out of which flowed many beneficent results. As head of a household, farmer and man of business, citizen, soldier, neighbor, friend, member and officer of the church, he faithfully discharged his varied duties, set an example worthy of imitation, was helpful to many persons, and commended himself to all who knew him by rare blamelessness and zeal in good works. In all this long and consistent career, and in the manifold aspects of his worth and work, Randolph-Macon rejoices, and rightly claims a share of the honor. Her sons are her reward, her jewels, and her credentials.

His father, Edmund Irby, died in the prime of life, in 1829. Richard, not quite four years old at the time, could not have remembered much of him, nor realized his own loss. Frances, his mother, lived until 1846. In an unfinished and unpublished manuscript, "Recollections of Men, Places and Events, 1845-1900," which he began too late to prepare for the benefit of his children and friends, and in consequence brought down only to the year 1852, he pays a loving tribute to his mother. He was shocked and

overwhelmed with sorrow one morning when the colored maid, on entering her chamber, found the mistress "cold and lifeless. She appeared really to have died while asleep, without a pang or struggle. Great was our grief that we had not her parting blessing, though we knew that, if conscious, her last prayer was for us. For her children, particularly the younger ones, she had toiled and denied herself many things that we might be educated and prepared for life. For us she had prayed in secret and around the home altar, leading the family service, pointing us to heaven and leading the way. If a pure, unselfish being ever lived to honor the name of Christ, she was one such. She did not profess to be perfected, but she was perfected in this life, as I verily believe. If there was a flaw in her character, I do not know what it was. Reared in the lap of wealth, with every gratification which wealth could afford, she, in the very zenith of prosperity, was left a widow with six children, only one able to take care of himself, and the larger part of her wealth gone at one stroke." A disastrous flood added probably to the embarrassment of debt caused by the purchase of a second farm a short time before his father's death. "But she bravely met the crisis. Not then a Christian, she soon became one, and found 'the God of the widow' an unfailing support. Henceforward the service of God and the godly rearing of her children prompted her in every effort, and cheered her in every struggle. I think of her now in my old age, a score of years older than she lived to be, as Samuel thought of Hannah his mother; as one of those who ministered to Christ in his trials—as one of those latest at the cross and earliest at the tomb of the Lord. The thought and memory of her have been a benison in life's dark hours; as if her prayers which blessed my infant head had never lost their blessing, but were potent still. Unworthy as I have been of such a mother, I still bless her, and thank God she was my mother." This is a portrait worthy to be preserved for its own spiritual beauty and for the lesson which it teaches. How much the church and the world owe to such mothers! How charming the picture of that gentle, modest woman, daily reading aloud the Word of God, and offering prayer in the midst of

the fatherless family! Richard Irby was never effusive or extravagant, but always sober and cautious in his judgment and language: his testimony carries the greatest weight. It sprang out of the depths of his sincere heart more than fifty years after the death of that saintly woman, and was written not for the public eye, but that his own children and grandchildren might honor her memory and catch her spirit. "Her children rise up and call her blessed." A good woman can have no higher praise and reward than the esteem and love of her children, except the reproduction in them of her own image and life.

The core of Mr. Irby's soul and the motive power of his life was love to Christ. He cannot be described or understood if this supreme fact be overlooked. Amid all its variety of incidents we find a remarkable consistency due to the piety which began in his boyhood, ruled his long life in all its seasons, and steadily deepened and widened to the end. It is interesting and instructive to go back to its sources. The grace of God was the beginning and the completing of all good in him, as in every other case. But the human, visible means differ. Evidently his mother's influence, by her prayers, example and teaching, was the first in time, and never ceased to his latest breath. He was the youngest of six children. William, the first-born, was the first to be born into the kingdom of God, preceding even his mother by a short time. He left Hampden-Sydney College in 1829 to visit his rich kin in Alabama. He was then a gay, pleasure-loving young man. But he attended a camp-meeting in the neighborhood, and there became thoroughly changed in heart and purpose. His uncle (afterwards Rev.) Freeman Fitzgerald and his wife, parents of the lady who became Richard Irby's wife, were converted at the same meeting, and the trio joined the Methodist Church. The news of his father's death hastened William's return to the home of his widowed mother. Mother and oldest son now united with the small and struggling class at "Crenshaw's Meeting-house," the birthplace of Methodism in Nottoway. Three Crenshaws were its founders, William, his son Allen, and his cousin Asa. Asa was a strong local preacher;

taught a school during the week, and preached on Sundays. Allen was class-leader, knew much of the Bible by heart, was familiar with the writings of Wesley, Fletcher, Benson, Clarke and Watson; was wise to guide inquirers and immature Christians, and was held in marked veneration and respect by the worldly as well as by his brethren. He offered an old dwelling on his farm as a place of worship. He and William Irby became close companions, stood shoulder to shoulder in every good work, and opened the first Sunday-school in that section. These facts are gathered from an unpublished manuscript of Richard Irby on "Crenshaw's Church," the successor of the old meeting-house.

On a week day in August, 1838, there began at Crenshaw's a mighty revival. George A. Bain was the preacher on the circuit, which embraced three counties, Amelia, Dinwiddie and Nottoway. The fire started in the conversion of an orphan girl, a Sunday-school scholar. The little church was only the centre of a far-spreading influence. Crowds collected, and often several services went on at the same hour. The work was taken up at other places; at the "meeting-house" itself the converts numbered over a hundred. One of these was Richard Irby, the subject of this sketch. In his autobiographical paper he mentions the building of the new Crenshaw's Church, near Blacks and Whites (now Blackstone), which was dedicated in October, 1845, and writes, "My mother, my brothers William and Benjamin, and myself were members there." As he was born September 25, 1825, he must have been just or nearly thirteen years of age at the time he became a "new creature in Christ Jesus." There seems to have occurred no stop, nor even check, to his religious life, but a steady progress in knowledge, grace and usefulness through sixty-four years; then he joined the church triumphant. A link between Crenshaw Church and Randolph-Macon College is this incident: "This church became famous for its liberal contributions to the missionary cause and other enterprises. This induced Rev. H. B. Cowles, then agent of Randolph-Macon College (1855), to inaugurate at this place the great canvass for endowing the college. Here Dr. W. A. Smith, the great rea-

soner and popular orator, and Dr. L. M. Lee, then editor, for several days, in sermons and speeches, stirred the popular mind on education as it had never been stirred before. They went away with five thousand dollars subscribed, which was the first installment of the one hundred thousand dollars afterwards secured." We learn from another source that Richard Irby started the subscription.

The raw boy of fourteen years left the maternal home in the autumn of 1839, and, in company with several Nottoway youths, rode horseback forty miles to "old Randolph-Macon," near Boydton, Mecklenburg county. It was a tender age at which to meet the responsibilities and temptations of collegiate life. The fear of God, a fear not slavish, but filial, the love of home, a cheerful, though serious spirit, and an appreciation of the advantages which the college offered to fit him for the work of life carried him successfully through the four years' probation. He applied himself to his studies, took an active part in his literary society, found time and zest for reading, and was powerfully impressed by the Faculty, from the President, Landon C. Garland, who, though not quite thirty years old when Richard matriculated, commanded the highest respect and admiration, by his genius, scholarship and modest dignity, to the odd, but pure-hearted tutor, Harris, whom he so humorously described in his *History of the College*. This valuable book bears emphatic witness to the wholesome religious atmosphere of the institution. "Never in the history of the church in Virginia has Methodism, in its spirit and economy, been more thoroughly exemplified than it has been at Randolph-Macon. Students were required to attend morning and evening prayer and Sunday morning service. The members of the church were organized into classes, with leaders according to Methodist usage, and class-meetings were regularly held once a week. The result and fruit of this work was a high state of religious life. Every year, or oftener, this life took the form of great religious activity, and sweeping revivals occurred, bringing well-nigh all in the college and many outside under spiritual influence, and many converts into the church." Friendships which he there formed with his fellow-

students, who came from many States of the South, were kept up in after years, and were precious memories to the end of his life.

Of the twelve who were graduated in 1844, five became lawyers, two ministers of the M. E. Church, South, two physicians, and two teachers. Irby alone "chose the calling of a farmer or planter." At the request of their mother, his brother Benjamin, five years his senior, and he undertook to run her farm on Nottoway River. It consisted of about sixteen hundred acres, had been brought to a very high state of improvement in his father's life-time, but after his death had deteriorated "under the management of overseers, who had more ambition to make large crops than to preserve the fertility of the land. Hence it was far from being what it had been, but it was still a fine farm." This qualifying remark, "It was still a fine farm," illustrates the habitual veracity of the man who would not claim for himself a whit of credit beyond what he deserved.

We quote from his sketch: "1846 was a notable year. It was the year I reached my majority. It was the year my mother died. It was the year I was married." His widow survives him, and we must, in respect to her feelings, be sparing in words. But we can properly quote a few sentences. "The close of the year (1845) was signalized by an event which has been more important to me than any other that ever happened. This was the engagement with my wife, with whom it has been my happy lot to be associated for now over fifty-five years (March, 1902)." At a great camp-meeting, near Blackstone, in 1846, she was one of the converts. "This was a great joy to me." October 1st of that year, Richard Irby, twenty-one years old, and Frances Virginia Fitzgerald, fifteen years old, were united in marriage at Leinster, the old home of the Fitzgeralds, where her brother then lived.

A few days after the wedding they went to his home, Poplar Hill, and commenced housekeeping. He bought the other legatees' interest in the farm, and became its sole owner. He was always awake to the world's progress, material, intellectual, political, and moral. It interested him to reflect that in the year of his birth the first successful railway train was run by steam; the same year the

first move was made to establish a Methodist college in Virginia; the year he went to college (1839) the daguerreotype process was brought into practical operation; the year of his graduation (1844) the first telegraphic message was sent. With his usual devout spirit, he adds, "Since these beginnings, 'what hath God wrought!'" He believed in the use of new machinery and improved methods of cultivation on the farm. His old-fashioned overseer protested against the corn-sheller and running a harrow over the sown wheat. But he was soon convinced of his error, asked Mr. Irby to order the *American Farmer* for him, and took it as long as he lived. Mr. Irby was a successful farmer, and had a foundry for the manufacture of farming implements. In 1853 he organized the Farmers' Club of Nottoway, and was its first president; the same year he became a member of the Executive Committee of the Virginia Agricultural Society, and was officially connected with this organization for more than twenty years. In his happy home he welcomed many guests, and dispensed a generous hospitality. He was one of Nottoway's foremost citizens.

In 1861 the storm of war, more terrible than drought, floods and hurricanes, burst upon the country. He left business and home, and entered the Southern service as first lieutenant of the Nottoway Grays, Company "G," Eighteenth Virginia Regiment. He was a strict officer; but as he set the example of courage, patient endurance, and fidelity to every duty, and was ever kind and considerate to the men, he won their strongest respect and confidence. In November of that year he resigned, to take his seat in the Legislature, to which he had been elected without his own seeking. But when reënlistment and reorganization took place the following spring, he was elected, without opposition, their captain; the former captain, Reps Connally, a brave and efficient officer, had been compelled by ill health to resign. From that time he was known as Captain Irby. In the camp, on the march, on the field of battle, he did his duty quietly, patiently, without murmuring, flinching, boasting, or selfish ambition. Whether civilian or soldier, he had one Master, Christ. He looked carefully after the material and spiritual

welfare of his men. He led them in worship as in battle. When his company had passed through three severe battles with only one man slightly wounded, it was said, "Captain Irby's prayers had saved them." At the second battle of Manassas he was severely wounded in neck and shoulder; disabled for a long time, he was transferred to the commissary department in June, 1863, "where he rendered most valuable service in getting supplies for the army." To the day of his death Captain Irby was a devoted friend of the survivors of his own company, and, indeed, of all Confederate veterans, and he had a warm place in their hearts.

After the surrender he returned to his farm and foundry. But country life was very difficult and profitless in those dark days of demoralization. The tide turned city-ward. In 1867 he was elected president of the Petersburg Iron Works. The next year he became a partner with Mr. Asa Snyder in the stove manufacturing business in Richmond. For several years he was agent for the Bureau of Immigration of Virginia. For three years he served as Secretary of the Virginia Bible Society. In 1886 he accepted the office of Secretary and Treasurer of Randolph-Macon College. Through all these years and in all these relations he maintained the highest reputation as a man of spotless integrity and genuine worth.

He served his church in District, Annual and General Conferences. He was president of the Board of Stewards of Centenary Church, in Richmond, when elected to the office which required his removal to Ashland. He was a worker and an advocate in the cause of Sunday-schools, temperance, education, and various benevolences. A thorough and enthusiastic Methodist, approving and loving the doctrines, discipline, and usages of his church, he was too large-minded and great-hearted to be a bigot; he had hosts of friends in the ministry and membership of other denominations, and rejoiced in communion and coöperation with all good men and in every good cause.

If we were asked what was his chief worth, and what the chief lesson of his long and eventful life, we would answer, The practical illustration of the *ethical* significance of the Christian religion. His

was not the shallow morality whose motives go no deeper than prudent self-interest. His religion was vital, experimental, rooted in faith and love. He was filled with the Holy Spirit; he walked with God. He loved the Bible, private prayer, the home altar, the house of the Lord. But this experience bore the sound, ripe fruit of sincerity, honesty, justice, purity, fidelity, brotherly kindness and universal love. His piety was solid, complete and constant. He was the same man, a man of God, at all times, in all companies, under all tests. "Old Reliable" was a name he won and merited. He could be trusted. Men of prominence in business and wealth and society, whom many persons would shrink from approaching with advice or request, listened readily to Captain Irby because they had full confidence in his pure and lofty character.

His last years were his best. His work as Secretary and Treasurer of the College was not merely official, but from the heart. He felt a fatherly tenderness toward the students, and not only served them in more general ways, but when they came singly to draw money deposited with him, he took the opportunity to advise them personally as a father would his own sons. He corresponded with the living graduates of the College scattered throughout the Union. He delivered addresses on various occasions to the students and in behalf of the institution. His *History of Randolph-Macon College*, written at the request of the trustees, is an interesting and permanently valuable book. He published at different periods of his life agricultural, biographical and religious articles. His *Bird Notes and Other Sketches* is a charming booklet. He was called upon to make speeches on a variety of occasions, often without previous notice, and he always responded with aptness, humor and wisdom.

When the Board of Trustees met in annual session June, 1902, he tendered his resignation of the office of Secretary and Treasurer. We quote from his letter, "My age unfits me for the responsible duties which I have done my best to fill. I cannot bear the idea of being suddenly called away, and leave so much to be turned over to

a successor. I prefer to do this while I am living and in a condition to do it." The board responded in the following resolutions:

"1. That we have received with deep feeling the communication of Captain Irby. Our confidence in his devotion to the interests of the College, his fidelity, integrity, and self-sacrificing loyalty is not only unabated, but has been greatly confirmed by the lapse of years.

"2. That we appreciate the delicacy of Captain Irby's feelings in the matter, and are affected by the evidence of his sound judgment concerning our interests, as well as by his own condition, by years and the infirmities of increasing age.

"3. While very unwilling to lose even the least of the service that he may be able to render, we are also loath to lay constraint upon him, and cannot deny the force of the view which he presents as to what his sudden calling away might involve.

"4. That we accept his resignation, to become effective at such time as may be agreed upon between him and the Executive Committee, after earnest inquiry by the committee for a suitable person to become his successor.

"5. That meanwhile the Executive Committee is hereby authorized and empowered to provide such assistance to Captain Irby as he may be willing to receive, and to fix the compensation for such service."

It was not merely the calendar, but certain physical premonitions, which bade him put his house in order. True soldier of Christ, he had lived in readiness to depart at any moment. He continued to enter his office daily, and attend to the business of the College. The end came before a successor could be selected. June 19th the resignation had been offered, and conditionally accepted. June 29th he attended Sunday-school, taught his class, and by request addressed the school on the life of Paul, closing with the quotation, "I have fought a good fight; I have finished my course; I have kept the faith." Fitting words, if this layman in the twentieth century

of our Lord had spoken them of himself, as they were fitting words from the pen of the great Apostle of the first century!

That same morning, while he was listening to a sermon in Duncan Memorial Church, a fainting spell seized him, to the alarm of the congregation. He soon rallied, and bade the preacher, who was this writer, go on. But the end was nigh; he grew weaker, and died at his home July 4, 1902, regretted and honored by all Ashland, young and old, white and colored, and by a vast circle of friends in his own State and far beyond. There were no last words, so far as this writer knows; certainly none were needed. His life was the strongest possible testimony to the genuineness and depth of his faith and faithfulness, and by it being dead he yet speaketh. The next day the funeral service was conducted according to the ritual, without remarks, in his home, and concluded at the cemetery near Blackstone, where he sleeps, as is right, in Nottoway soil, awaiting the trump of the resurrection and the coming of the Son of God. But he was "not all mortal." He departed to be with Christ, which is far better. His wife, nine children—all church members—and seventeen grandchildren, most of them professing Christians, survive him. Four of his children died before him. His father had thirteen children; his wife's father had thirteen children; he had thirteen children.

THOMAS RITCHIE.

BY C. T. THRIFT, A. B.

“These are deeds which should not pass away,
And names that must not wither, though the earth
Forgets her empires with a just decay,
The enslavers and the enslaved, their death and birth.”

THOMAS RITCHIE was born in the village of Tappahannock, which is situated on the Rappahannock River. The date of his birth is November 5, 1778. He died in the city of Richmond July 3, 1854. The record of his work is found in the dusty pages of the *Richmond Enquirer*, of which he was editor for over forty years. The result of his work, who can say?

Thomas Ritchie sprang from a stock which has been distinguished for its talents. His kindred have been famous in affairs of state. His father was Archibald Ritchie, a merchant, who came from Scotland. His mother was Miss Mary Roane, daughter of William Roane, of Essex county. He was a first cousin of Judge William Brockenbrough; of the Court of Appeals of North Carolina; of Hon. John Roane, M. C., from the District of King William, and of Judge Spencer Roane, of the Virginia Court of Appeals, who narrowly missed being Chief Justice of the Supreme Court instead of John Marshall.¹ He was a second cousin of Judge Thomas Ruffin, Chief Justice of the Supreme Court of North Carolina, whose father, Sterling Ruffin, married Alice Roane. Such were some of the kinsmen of Thomas Ritchie. Many of the most prominent people of Essex to-day are descended from this stock—an ancestry of which any people might be proud. Their temple of

¹ Virginia Law Register, page 480. Article on Judge Spencer Roane, by Judge T. R. B. Wright.

justice is adorned with the portraits of many of the illustrious sons of Essex, among which is that of Thomas Ritchie.²

At the age of six he was deprived of the counsels of his father, and thenceforth the responsibility of the child's education and training was entirely in the hands of his mother. The family had an aptness for the bar, as has already been mentioned, so his mother, who was very anxious for her son to study law, had little difficulty in persuading him to enter the law office of his uncle, Judge Spencer Roane. He devoted himself to his studies with the utmost assiduity, and would doubtless have been an eminent jurist had he continued in that profession. But young Ritchie was extremely conscientious, and his conscience forbade his pleading a cause in which he could not believe. He, therefore, gave up the practice of law, and devoted himself to medicine. But as he was very sensitive, he abandoned this also. His next work was teaching in the city of Fredericksburg—a work which he found very congenial. His pupils were studious and deeply interested, but over-application undermined the young teacher's health to such an extent that his cousin, Judge Brockenbrough, declared that neither teacher nor scholars could endure such excessive mental labor. With much sorrow they bade each other *adieu*. Even at such an early age Thomas Ritchie had made quite a reputation as a scholar, on account of his classical and scientific studies. After closing his school, he ran a book-store for several months. Such was his early life.

About this time there was great need of a journal in Richmond. Judge Spencer Roane³ established the *Richmond Enquirer*, and Thomas Ritchie was installed as editor. In the light of subsequent events it seems that the man and the opportunity had met. In the field of journalism young Ritchie found ample space for the display of his wonderful talents. Journalism was not then what it is to-day, nor what it was when he left it. He rose above his profession, and then elevated that to a plane which it had never occupied before. He found the newspaper a mere purveyor of

² This portrait was unveiled April 20, 1896, the speech of acceptance being made by Mr. Charles J. Sale.

³ Virginia Law Register, Vol. II., p. 481.

news, and subservient instrument of political leaders; he made it the means of directing the public, and moulding public sentiment; he left it a mighty power in the land. He was among the first great newspaper editors of America, and he it was who laid the foundation of journalism upon which Greeley, Bennett, Raymond and others built.⁴

On May 9, 1804, he issued the first number of the *Enquirer*. His salutatory is very unique and characteristic of the man. We give it in full:

"On the extent of his own resources the editor is not prepared to advance any pretensions, however small, or to disclaim any, however exorbitant. His attention to those practical subjects which interest the feelings of others, and his ignorance, even in the ways of the world, may perhaps be compensated by some little proficiency in theoretical researches. But on the strength of his zeal he is willing to indulge the most encouraging hopes. Should his constitution experience no material change from the sedentary life which he has long passed, and which his present pursuit will force him to continue, he thinks he has little reason to dread many deviations from the plan, or much diminution of the zeal with which he has commenced his editorial labors. He fondly hopes that whenever the time shall come when necessity or inclination shall induce him to abandon his present pursuit, he may be able to lay his hand upon his heart and indulge the consolatory reflection that he has not injured the interests of his country, and that he has not dishonored the high prerogative of the press or his own personal honor."⁵

Such was the beginning of the great editor's career. It was not long before the influence of the *Enquirer* was felt in the land. Though it was essentially a political journal, nevertheless its columns were always enlisted in morality's cause. It was clean, being always free from whatever was sensational. It would be difficult to overestimate the influence of this paper, not only upon Virginians

⁴ Address of C. J. Sale mentioned above.

⁵ Copied from the *Richmond Dispatch* of July 7, 1854. There are very few *Enquirers* of May 9, 1804, in existence.

and the people of the South, but upon the whole American people as well. It has been asserted that Thomas Ritchie wielded an influence as great or greater than any other man of his time. The *Richmond Enquirer* occupied the place next to the Bible, in the estimation of the Southern Democrat. Indeed, it was called the Democratic Bible.

Mr. Ritchie was nothing if not a Democrat. He was a strong adherent of Jeffersonian principles, a thorough master of the science of politics, and a true exemplar of its ethics. At the same time, he taught the whole duty of citizenship, and defined the true relation of government to the governed. We have already alluded to his great influence. Hugh Blair Grigsby says of him: ⁶

"And this leads me to say that sitting at the clerk's table busy taking notes were two men, not members of the body,⁷ not holding civil office, who wielded a greater influence over the people of the State than any other two men. . . . The elder of these [Ritchie] for a quarter of a century had edited a journal, which was the leading organ of the State, with a zeal hitherto unknown in our annals, and with corresponding success. He had taught the people to think his own thoughts, to speak his own words, to weep when he wept, to wreath their faces with his smiles, and, over and above all, to vote as he voted."

From the time Mr. Ritchie issued his first paper he took a prominent part in the discussion of all the questions of the day. He was always among the first to express an opinion, and thus he exerted great influence in moulding public sentiment. Absolutely fearless in declaring his own views, he felt the utmost contempt for the man who did not know which side to take, or who waited until a question was decided, and then espoused the victorious side. Thus he comments on the *Baltimore Patriot*, which was afraid to espouse either side of the Missouri Compromise: ⁸

"The *Baltimore Patriot* thinks it ⁹ 'all right and correct,' though

⁶ Address before the Virginia Historical Society, December 15, 1853.

⁷ Convention of 1829-'30.

⁸ *Enquirer*, March 7, 1820.

⁹ The Compromise.

it confesses it would have appeared like presumption (*presumption in a freeman*), while the controversy was pending, to have obtruded our remarks."

As might be expected, Mr. Ritchie had no easy course to run. While men everywhere recognized his talents, many of them hastened to hurl at him their shafts. Indeed, the manner in which he was attacked was but a compliment to his genius. Boys who had just laid aside their swaddling clothes, statesmen who had lost office, or sought it under a new system, writers of every degree dipping their pens in ink not unmixed with gall, sought to impair his sovereignty, but sought in vain. Men apparently sought quarrels with him for the sake of notoriety, for surely they did not expect to pierce the armor of such a man with the weapons which they wielded.

The Whigs were very hostile to him, and even went so far as to charge his father with being a Tory. This impious charge was refuted in the *Enquirer* by some talented writer, using the *nom-de-plume*, "Peter Farce." Mr. Ritchie also alluded to the matter very gracefully, and called attention to the action of the British upon one of their visits to Tappahannock. It seems that on the occasion alluded to they broke open the vault, demolished the coffin and otherwise desecrated the ashes of Archibald Ritchie, because of his hostility to the British. At the same time, he reminded his assailants that his brother, Captain John Ritchie, fell at Lundy's Lane in defence of his country.

Other editors frequently picked quarrels with the editor of the *Enquirer*, bringing various charges against him. These he frequently replied to at once, but sometimes they accumulated on his hands. Then he would lay aside the discussion of the weighty political questions of the time, and administer a little chastisement to his brother editors, and then quietly resume his labors, until an accumulation of charges again provoked him to the combat. In the *Enquirer* of May 14, 1811, we find the editorial column headed "Private Accompts." We purpose to touch upon those which are in a large manner self-explanatory. The first one was

with the *Federal Republican*, of Baltimore, which shows the estimate placed upon Mr. Ritchie's writings, and also his character. The *Federal Republican* had pronounced his editorial on Smith's retirement from the Cabinet as the production of Mr. Jefferson's pen. In taking it up, Mr. Ritchie first calls attention to the fact that for some reason that copy of the *Federal Republican* was not sent to the *Enquirer's* office. He then characterizes the statement as a falsehood, and says further :

"Let us nail this fib to the counter. We pronounce that this piece not only is not from the pen of Mr. Jefferson, but that he had not the most distant or indirect concern in it. We father no man's pieces, be he ever so distinguished. Nor will we suffer any man to bear the responsibility of our own. The piece was from our own pen, and what is more, it was submitted to no eye whatsoever until it came from the press. It was struck off at a heat, but we have reviewed it over and over again, and, what is more, we have *labored* through all the false, tedious and impudent commentaries of the *Aurora*, and we can boldly assert that there is no line which dying we would wish to blot, not a line at which we blush, not one which we do not believe to be founded in immutable truth.

"There is an apparent *vanity* in noticing the above, for who would not be proud of the honor of being seriously thought capable of wielding a pen like Mr. Jefferson? But as the compliment was paid us at his expense for covert and mischievous purpose, we must nail the counterfeit to the counter."

The next "accompt" was with Gerard Banks, editor of a paper in Fredericksburg. Banks had informed the public of the rupture between the *Aurora* and the *Enquirer*, and had added, rather knowingly, that the editor (Duane) of the former held an office, while the editor (Ritchie) of the latter wanted one. The reply was as follows :

"Now, how the Sieur Gerard should *know* this *we* are at a loss to know. The imputation which he makes is utterly false. The editor of this paper never did expect, desire, ask for, or in any shape whatsoever solicit of Mr. Madison, the President of the

United States, for the use of him, the said editor, any office, contract, or concession whatsoever, whether lucrative or honorary, and when the said editor shall accept, ask for, or in any shape whatsoever solicit of the President aforesaid, for the benefit of said editor, any office, contract, or commission whatsoever, may the right arm which wields this pen forever lose its cunning, and his PRESS forever lose the confidence of his countrymen."

This is a very strong statement, but Thomas Ritchie lived up to it; for it was on this very ground that he declined to assist his brother's protégé, who went to him for a letter to the authorities at Washington.¹⁰

At one time his nephew was given a naval appointment, and, as a compliment to Mr. Ritchie, the commission was sent to him to present to the young man. He returned it to the authorities, saying that he would not depart from his avowed custom.

In this article I shall attempt to give the great editor's views on the most important questions. It would be impossible to give them all, as he discussed every subject, and that, too, in a masterly and exhaustive manner.

He had as much to do with bringing on the war with Great Britain in 1812 as any one man in the Union; it appears even that he exerted a greater influence in that direction than any other man. He denounced the imbecility of Congress, and agitated the question until the President and Congress were forced to adopt war-like measures. American vessels were being searched and many seamen taken therefrom. This was done in the most insulting and contemptuous manner, yet many people were opposed to making a stand against England because of her strength. When Commodore Rogers and Captain Bingham made an attack on the *Little Belt* because of these outrages, many papers criticised them severely for offering an *insult* to England, the *mistress of the sea*. Mr. Ritchie scorned such an attitude, and commended those men for avenging the insult offered to their country. He declared that he was tired

¹⁰ Letter from Thomas Ritchie to Archibald Ritchie, December 28, 1830.

of words, proclamations, etc., and wished to see the thing come to an issue. In the severest terms he scored the Federalists for "knuckling" to Great Britain. Many papers and prominent men appealed to the people to submit on the ground that England had such great power, and that the country would be heavily burdened with taxes. The latter argument had great weight with the masses of the people. But Ritchie raised his voice in protest against such a mercenary argument. He asserted, on behalf of the Virginia Democracy, that they were willing to make any sacrifice rather than submit to dishonor, and that to stand back on a question of taxes was to show an unpatriotic spirit. His utterance reminds one of the words of Patrick Henry, "Give me liberty or give me death." He hoped for peace with France, but desired a contest with Great Britain, and declared it America's duty to prepare, if need be, for war with both. William B. Giles, Senator from Virginia, evaded a declaration of his position, and was absent a great deal from the Senate Chamber, spending the time at his home in Virginia. In a letter to him Mr. Ritchie arraigned him in the most fearful manner for his inertness and shirking of duty at such a critical moment.

At length Congress was aroused to action by the activity of Mr. Ritchie, and when it decided to adopt strong measures he was delighted. When President Madison sent his message to Congress advocating war, the editor's joy knew no bounds. He commended the message as clear, concise, and logical. But his work did not cease with the declaration of war. He was energetic in advocating decisive action, and goaded the Republican party until they did adopt vigorous measures.

The next question of special interest is that concerning the renewal of the charter of the United States Bank. His utterances in opposition to this measure were strong and forceful. He believed the measure unconstitutional, and declared the following theses had to be proved:¹¹

"1. That the Constitution gives power to the United States to establish a bank.

¹¹ *Enquirer*, May 20, 1815.

"2. That the withdrawal of seven millions of specie can facilitate the return of State Banks to specie payment.

"3. That throwing thirty-five to seventy millions of paper on the market can relieve it of its flood of paper.

"4. That a National Bank will purify our mixed and debased circulating medium.

"5. That if the United States taxes are only to be paid in notes of the National Bank, in what way are those notes to be secured?

"6. Whether the mother bank can safely put out notes enough to answer the demands of United States debtors even in the towns.

"7. That, embarrassed with all these things, it will be an advantage."

Mr. Ritchie was not opposed to a National Bank established by a constitutional grant at an opportune time; but he declared that not only was it an infraction of the Constitution, but that the time was not propitious. In the fall of 1815 the *Enquirer* asked the banks to appoint committees to consider the banking question; to secure uniform action, and to consider the advisability of returning to specie payment.

Allusion has already been made to the numerous controversies in which the editor of the *Enquirer* engaged. In 1815 he had a battle royal with the *Aurora*, of Philadelphia, of which Duane was still the editor. That paper had apostatised, and when thus accused by Ritchie, Duane pleaded guilty, and brought the counter-charge of sycophancy on the part of the *Enquirer*. Now Ritchie prided himself on his independence of character, and, as might be expected, such a charge brought forth a vigorous reply. In an editorial of several columns length he sets forth his policy as an editor.¹² This is valuable, as it gives us that policy from his own pen. The substance of it is given below. He asks if it was sycophancy in the *Enquirer*:

"When it appealed to the principles of representative government in 1806, and called upon Jefferson to lay down his power after eight

¹² August 17, 1815.

years of service? When it denounced the report of the Yazoo commission, though received favorably by three Cabinet councillors? When it took a stand in 1807 upon the French Decrees and British Orders, for the first time announcing a truth not then known to be the ground of the administration, but which for five years directed all diplomatic correspondence? When from that time till June, 1812, it never ceased marching straight on advocating energetic measures? When it lashed and goaded Congress for its imbecility, or whenever it faltered in its course of action? (And when the *Enquirer* called for an appeal to arms, where was the *Aurora*?)

"When war was finally declared, what press was more eager to see it conducted vigorously? Were we playing the sycophant when we denounced Eustis as Secretary of War? Or when we denounced Congress,¹³ and that, too, when friends, party and personal, begged us not to interfere? No press in the country defended the Constitution according to the principles of 1798 and 1799 more than the *Enquirer*. It was the first to denounce the renewal of the bank charter, founding that objection on the principles of 1791, and the report of the Alien and Sedition Laws, and even placing before the President his own speech of 1791. We did not wait for our cue from Washington, but appealed at once to principles of 1798. Letters from Washington denounced us, but we kept on denouncing the errors of every Republican sinning against principle, exposing Gallatin, etc. Whilst we maintain the rights of the United States, we oppose the usurpation of the rights of States."

The last sentence is illustrative of Ritchie's course. He was an earnest advocate of States' Rights, and vehemently opposed any infringement of those rights.

Mr. Ritchie was a Democrat, and it would only be natural, therefore, to expect him to discuss fully the question of the tariff. This great question was before the American people no less than thirty times between 1789 and 1843. It would not be possible to present his views on each one of these, nor would it be necessary to do so;

¹³ December, 1813-January, 1814.

but some review of his attitude toward the subject is necessary to any adequate sketch of his career. He himself gives this in an editorial headed, "The High Tariff System as a Revenue Policy."¹⁴ He proceeds to show that the advocates of protection have put themselves in a dilemma, for while they advocate all mechanical inventions for increasing commercial and shipping facilities, they place high duties to restrict commerce. He claims that they lack consistency. He then takes up the tariff, and calls attention to the two eras: the first composed of fifteen tariffs, covering the period from 1789 to 1816; the second composed of an equal number, extending from 1816 to 1843. The first was a revenue system. Under this system few specific duties were laid, and nothing was known of minimums. Generally the tax was according to the value. If a discrimination was made for protection it was below, not above, the revenue limit. As a rule, the rate of the tariff was much less than 20 per cent.

The second period was one of protection. Under this régime the discrimination was made above the revenue limit, and sometimes amounted to 200 per cent., the tax upon luxuries being lowest, that upon necessities the highest. The tax on Madeira wine was 5 per cent., that on salt was 150 per cent. Ritchie declared that the old system was honest, but the new one dishonest. He then proceeds to show, by two tables, that the old policy was best for revenue. During the first period the revenue was very steady, showing very little fluctuation. The period began with a revenue of four and a half millions for four million people, and ended with a revenue of seventeen millions for a population of seventeen millions. In 1817, when the protective policy went into effect, the revenue amounted to twenty-six millions. In 1818, first year of new system, it fell to nine millions, while in 1819 it rose to twenty millions. After a lapse of two years it went down to thirteen millions, and in 1841, when the population was more than seventeen millions, the revenue was only ten million dollars. In 1843, with a population of eighteen and

¹⁴ *The Union*, November 19, 1846.

a half millions there was seventeen and a half millions revenue, which was ten millions less than in 1817, with a population of only nine millions. The second period was marked by great fluctuations, the treasury being at one time distended, the next empty; one day scattering abroad, the next begging. He calls attention to a report made to the Senate by the Secretary of the Treasury. That official reported that upon sixteen articles under tariff of 1842 the increased prices paid by consumers was ninety-four million dollars, of which eighteen million dollars was gross revenue, which, after the expense of collection had been deducted, was paid into the United States Treasury. The remaining seventy-six million dollars went to swell the coffers of manufacturing capitalists. Thus he shows that under a system for revenue the people are not burdened, while the treasury receives more actually than under the protective system, and, in addition, under the latter the people have an enormous burden to bear, which benefits, not the government, but wealthy capitalists. Such were the opinions of Mr. Ritchie upon the tariff question.

While the country was defending its neutral trade during the Napoleonic wars, and afterwards busy organizing its system of politics and commerce, the slavery question was making inroads upon the country, dividing the Union, and threatening its dissolution. It came to an issue temporarily in the Missouri Compromise. Mr. Ritchie recognized the gravity of the question. He says,¹⁵ "The present crisis is one which requires all our discretion, firmness, and public spirit. Let but an amicable spirit pervade both quarters of the Union, and we still hope that truth and justice will prevail." He regarded it as compromising the Constitution, and violating the rights of a sovereign state. He opposed the Compromise in vigorous terms. The *Enquirer* of that time contains many masterful arguments on the subject. He declared:

"1. That the Constitution ought never to be amended and so modified as to permit Congress to restrict a State on the question of slavery.

¹⁵ *Enquirer*, February 26, 1820.

"2. That as the Constitution *now stands* Congress has no right to restrict the territorial governments. (Squatter sovereignty.)

"3. That were even every constitutional impediment removed as to the territories, the bill before the House of Representatives would be unconstitutional, as it is intended to shackle future sovereign States.

"4. That even if the Constitution permitted it, the Compromise under the bill is grossly disproportionate, unequal and inexpedient."

The great editor was keenly disappointed at the result, yet his words at that time show his love for the Union:¹⁶

"The deed is done. The treaty is signed, sealed and delivered. The Compromise which threw this city and this Commonwealth into a flame, and suspended for a week the Electoral Caucus, is consummated. We submit. It is the duty of good citizens to hold by the sheet anchor, the law of the land, so long as it remains a law. We bow to it, though on no occasion with so poor a grace and so bitter a spirit. The South and West are wronged; they must feel impatient. This Union is too dear to us all to be torn asunder. We prize it too reverently to mediate any blow at it. Some, indeed, have thought fit to augur a dissolution of the Union from the late agitating discussion, but in truth the present question never seriously jeopardized it, whatever might have been the panic which was got up for the occasion. We take leave of this question with the bitterest disappointment. But with all our disquietude and regrets, there is intermingled one pleasureable emotion, that the high-minded citizens of Missouri have succeeded in their wishes, and are about to enter the Union unshorn of their beams, free, sovereign—*on equal footing with the original States.*"

I have alluded to the great influence which Mr. Ritchie wielded not only in Virginia, but in the entire country. Men high in authority were glad of an approving word from the "King of the Democratic Press." The following extract from a letter written by Mrs. Tyler to Mrs. Gardner confirms this statement:¹⁷

¹⁶ *Enquirer*, March 7, 1820.

¹⁷ Letters and Times of the Tylers.

"PRESIDENT'S HOUSE, December 6, 1844.

" . . . Tell Alexander the King of the Democratic Press, Ritchie, is out with a perfect eulogy of the President's Message. To see him go so far we did not expect; but he says it is the ablest message he remembers ever to have read. This is another great triumph, for the tone of that paper gives a voice to Virginia, if not the whole Democratic party."

Mr. Ritchie was an ardent advocate of the annexation of Texas. There was hostility shown in many quarters to its admission, but the *Enquirer* exerted its whole influence in favor of it. We may learn something of the influence he wielded in this controversy from the following in the *National Intelligencer*, May 25, 1847,¹⁸ under the title, "The Administration and its Organ":

"Its editor [of *The Union*, a new administration organ, which Ritchie had been called to Washington to edit] had not been a week installed in his present official position before he began to foretell the existence of war with Mexico, the curse of which, by his influential agency in the Texas annexation scheme, he has had more to do in inflicting upon the country than any other person whatever, not excepting President Tyler himself, or the speculators in Texas stock and lands, by whom he was surrounded, counselled and impelled to his unwise course."

Now the *Intelligencer* was a reputable paper, and its opinion is worthy of consideration; for ex-President Tyler wrote a letter to the editors of the *Enquirer* (the sons of Thomas Ritchie) in regard to the above-mentioned article, in which he says that "the *National Intelligencer* deservedly ranks among the most reputable journals of the day, . . . and will hereafter be regarded as one of the lights of history."

Then he speaks of Mr. Ritchie as follows:

"Now I do not mean to object to the ascription of great influence to Mr. Ritchie, then senior editor of the *Richmond Enquirer*, in aiding to carry out the cause of Texas annexation. Far from it. The course of that able and talented editor has been sensibly felt

¹⁸ This is taken from Letters and Times of the Tylers.

on all questions of public policy for more than a quarter of a century; and I do cheerfully confess that when the *Enquirer* espoused the Texas cause I felt increased assurance of the ultimate consummation of that great measure."

In the last years of his life, Thomas Jefferson read but one paper, which was the *Enquirer*. Mr. Ritchie was without doubt the ablest exponent of the views of Jefferson. In 1823 the Sage of Monticello wrote to a friend in Philadelphia that he had given up all the papers except one. He said, "I read but a single newspaper, Ritchie's *Enquirer*, the best that has been or is published in America." In a dispute with James Watson, of the *New York Courier and Enquirer*, over the bank question, Mr. Ritchie was charged by that editor with having lost the favor of Jefferson, and with being characterized by him as "a changeling" and "an apostate." The Whig press seized upon these rumors and spread abroad the news of Ritchie's downfall, declaring he had been disgraced in the councils of his own party. Ritchie proved the worthlessness of this charge, and produced letters which showed conclusively that he was held in high esteem by Mr. Jefferson all through his life. The papers were so overwhelmed that they at once made the *amende honorable*.¹⁹

The annexation of Texas became the great issue in 1844. Tyler had been a Whig only in his opposition to Jacksonian principles, which departed from the doctrine of Jefferson; otherwise he was a strict constructionist, and an advocate of States' Rights.²⁰ As was natural, he wished to receive the high office by the votes of his countrymen, and thus became a candidate. This threatened a division of the Democratic party, some following Tyler, others espousing the cause of James K. Polk, the regular Democratic candidate. This division, if unchecked, would give the election to Clay, the Whig candidate. Mr. Ritchie was a skillful party-leader, and he arose to avert the impending evil. He appealed to Tyler

¹⁹ *Christian Advocate*, Nashville, Tenn., April 3, 1902, page 3, "Jefferson and the Press," by George Fred. Mellen, Ph. D.

²⁰ Channing's *History of the United States*, page 437.

to withdraw, and so great was his influence that he succeeded in influencing him to withdraw. This insured Democratic success.²¹

At the election which followed Polk was elected, and in due time entered upon the duties of his high office. He had not long assumed the reins of government before he became disgusted with the half-hearted support of Blair and the *Globe*. So he turned to Thomas Ritchie, of the *Enquirer*, for support. It was at his request that Mr. Ritchie went to Washington to take charge of *The Union*, the administration organ. Leaving the *Enquirer* in the hands of his sons, he went to the National Capital and entered upon his new duties. Mr. Polk found in him an able defender of his policy.

The first great question that came before the administration was in regard to the Oregon Territory. Many of the newspapers attacked the administration for its policy in regard to this question, but Mr. Ritchie showed that the President's course had been consistent throughout. He maintained that our title was good up to 54° 40'. He declared that we had acquired it by treaty from Spain, and that our claim had been ratified by Mexico; that Spain had it by right of discovery, conquest, occupation, and contiguity, and that he had never been convinced that any of these rights had been lost by treaty with England or any other nation. Therefore, he concluded that by reason of our treaty with Spain our claim was valid. While the boundary was settled on the forty-ninth, he still maintained that our right was good to 54° 40'. Other papers had urged arbitration or compromise, but he opposed the idea, and urged that we demand all that was ours.

Ritchie remained at Washington for four years, ably defending the course of the administration. At the end of that time, he retired to private life, much to the delight of his family. He devoted himself to the study of poetry and mathematics, of which he was very fond.

Many who have read Ritchie's discussions have seen nothing but an irascible temper. They have been impressed with the fierce in-

²¹ Letters and Times of the Tylers, by Lyon G. Tyler.

vective, biting sarcasm, and keen satire, in the use of which he was admittedly a master. They have concluded that Mr. Ritchie courted dispute for dispute's sake, but in reality a majority of those controversies were provoked by others. It is true that he never shrank from a discussion, and once the gauntlet was thrown down, he was not the man to refuse to take it up. Once he had entered the contest he held on, with a bull-dog tenacity, till the contest was decided, which almost invariably meant victory for his side. But while he engaged in heated discussions, and dealt fierce blows upon his enemies, he always fought fairly, for he was the soul of honor, and naturally felt contempt for the coward. Notwithstanding the bitterness which at times marked his conduct of political battles, let it not be supposed that he had no tender traits. He was a man of the noblest impulses and of a sympathetic nature. His description of the burning of the theatre in Richmond is a remarkable production. His heart was so full, his sympathies so aroused at the awful catastrophe that he could scarcely find utterance for the feelings which so nearly overcame him. He poured forth his sympathy for the grief-stricken people in a style so plaintive, so pathetic, that it beggars description.²²

In letters to his family and friends we find further evidence of the tenderness of the man. In speaking of his family, he always did so in terms of endearment. His letters to his sister-in-law upon the death of her husband, Archibald Ritchie, who had been for many years his only brother, is written in a very comforting manner. He speaks in the highest terms of his brother, who was very dear to him, and mourns with her the irreparable loss which she has sustained. He expresses great sorrow at being unable to attend the funeral and pay his respect at the grave of his beloved brother.²³ In private life, around his own fireside, surrounded by his loved ones, Thomas Ritchie was kind, gentle and affectionate.

While Ritchie spent his life as a writer, he was not without ability as a speaker. He was dubbed by the Whigs a "sweat-house ora-

²² *Enquirer*, December 28, 1811.

²³ Letter to Mrs. Archibald Ritchie, undated. Branch Papers, 1902, p. 154.

tor.”²⁴ As a speaker he was clear, earnest, fluent, effective, and at times eloquent.

An amusing story is told of Mr. Ritchie. He was very fond of the phrase “winter lingering in the lap of spring.” Once when the spring was quite late, John Hampden Pleasants, of the *Whig*, who had ridiculed Ritchie for using it so often, said that it was time for the phrase to appear in the *Enquirer* again. The very morning that this appeared in the *Whig*, the *Enquirer* came out, and in its columns were found “winter lingering in the lap of spring.”

In person he was tall and lean; he had a brilliant eye, prominent chin and Roman nose; his profile was so distinctly marked that if once seen it was not likely to be forgotten. His presence was commanding. His movements were very quick, and in walking he leaned slightly forward. When speaking he had a habit of placing his hand upon his chin. In regard to dress he was very particular. He clung with a great fondness to the old styles of Virginia dress, wearing low shoes and silk stockings. He did not spurn the duties of the toilet, but was by no means foppish.

After retiring from the editorial chair Mr. Ritchie spent his life in the bosom of his family, revising his studies, reading the Holy Scriptures, culling the gems of poetry and song, and contemplating the beauties of rural scenery. He was a well-preserved man, there being no premonitions of decay. His sight and hearing were remarkably well preserved; he was able to read the finest print without spectacles. At length the silver cord was loosed, and on the 3d of July, 1854, in the seventy-sixth year of his age, Thomas Ritchie, the ablest editor the South has yet produced, full of years and full of honors, ceased from his labors.

CHARLES TINSLEY THRIFT.

²⁴ From the fact that the Democrats held their meetings in the sweating room of a tobacco warehouse.

ABEL PARKER UPSHUR.

BY R. E. M'CABE.

EARLY mention of the name of Upshur is found repeatedly in connection with "the grandees of the county" of Northampton, "the land of the pine and the myrtle"; and the tombstone bearing the inscription—

"In memory of Arthur Upshur, born in y^e County of Essex in y^e Kingdom of England, who died January 26, 1709, in y^e 85th Year of his Age,"

is still to be seen, with that of Mary, his wife, at Warwick, or "Quinby's Farm," in Upshur's Neck, Eastern Shore.

Abel Parker Upshur was one of a family of several brothers and sisters. He was born in Northampton county, Va., June 17, 1790. His ancestors came to America more than two hundred years ago, and settled on the Eastern Shore; there the family has remained to the present time, "cultivating the soil, ornamenting society, generation after generation, with some of its most virtuous, intelligent and useful members. This is one of the oldest families in Virginia, and is remarkable for staid habits and sterling worth."¹

His father, Littleton Upshur, married Ann Parker, a sister of Col. Thomas Parker, called "Hangman Tom" by the Tories of the Revolution, and captured in Mathew's Regiment at the battle of Germantown. When Earl Harcourt rode along the line of ragged, worn and drooping rebel prisoners, asking each what his occupation had been, Lieutenant Parker stood erect, and when his turn came to tell who and what he was, replied to the question of the Earl by saying, "I am, as my father before me was, a *gentleman*, and be d——d to you! Who are you?"² It was from such stock as this that Abel P. Upshur sprang.

He was at his grammar school just at the moment when the doctrines of state and popular sovereignty began to be successfully

¹ *Southern Literary Messenger*, December, 1841.

² *Seven Decades*, by H. A. Wise, page 197.

taught, and he lived to encourage these principles to a great climax. In the year of his birth Dr. Franklin presented the first petition for the emancipation of slaves. According to Mr. Wise, this was the beginning of the acts which irritated sectional antagonism, aroused religious antipathies, fomented jealousies and discord, disturbed the legislation of Congress, and finally caused civil war. The world was being shaken and disturbed by the French Revolution, followed by the wars of Napoleon. The politics of Europe naturally affected the conditions in America, and resulted in the Federalist and Republican parties. The Federalist party was made up of men of aristocratic tendencies, and was continually brought more and more into sympathy with England. The Republican party, on the other hand, sympathized more with the struggles of France. The Upshurs, like many of the leading families of the Eastern Shore, were "blue-light" Federalists, and strong opponents of the Jeffersonian party,³ though, like the Rhett, the Elliotts, and many others, of South Carolina, they afterwards became the strictest of the strict-constructionists, and Abel P. Upshur's greatest effort was directed against the teachings of the Federal school. Young Upshur was thus under Federal influence from his earliest childhood, and was thoroughly and fully imbued with Federal ideas by birth, by education, and by the men and events around him, for not only were his parents and most of his acquaintances, Federalists, but his private tutor, Mr. Gideon Tomlinson, of Connecticut, afterwards a member of the United States Senate, was also a Federalist.

When Upshur was fourteen years of age his father decided to send him, in company with his brother Arthur, to Yale College. His name, with that of his brother, appears in the catalogue of students, in the junior class, issued in November, 1805—that is, as belonging to the class which was graduated in 1807.⁴ The two brothers did not finish their course at Yale, but left there the following May, and were examined and admitted to the junior class at Princeton College on the sixth day of the month. They were

³ *Southern Literary Messenger.*

⁴ Franklin B. Dexter, Yale College, Authority.

passed from the junior to the senior class on September 23, 1806; but again circumstances interfered, so that Abel did not complete his course.⁵ "It seems that several students were suspended by the Faculty, for what certainly appeared a sufficient justification, but the other students thought the manner in which it was done 'unjust and precipitate.' This brought them into collision with the Faculty, who, in order to break up the 'combination,' referred the matter to the Trustees. They made a careful investigation, which ended in the expulsion of Upshur and ten other students; many were also suspended." The minutes of the Faculty bear record that Abel Upshur appeared before the Board of Trustees on April 10, 1807, in defence of his conduct, as a leading member of the combination among the students to resist the authority of the College. Dr. Smith described the speech he made upon this occasion, in justification of his conduct, as one of the finest displays of argument and eloquence he had ever heard. This occurrence was a serious blow to Princeton College, for the following year its catalogue shows a great falling off in the students enrolled, the number being only 113.⁶

Upshur then returned to "Vaucluse,"⁷ his home, in Northampton. In 1808 he went to Richmond, Va., to begin the study of law under William Wirt, possibly the foremost lawyer at the Richmond bar. John Tyler was Governor of Virginia at that time, and his son, John Tyler, Jr., afterwards President of the United States, was studying law in the office of Edmund Randolph. Mr. Tyler tells us⁸ that he and Upshur became members of a debating society in

⁵ Faculty Minutes of Princeton, as examined by Mr. Henry C. Cameron.

⁶ Mr. Wise has asserted, in his "Seven Decades," that the expulsion of Upshur was due to politics. This, however, is incorrect. The dispute is known in the history of Princeton as the Great Rebellion, and was due to insubordination, as brought out in the Minutes of the Faculty.

⁷ The house is now standing, and is occupied by Dr. John T. Wilkins. See "The Land We Love," Vol. I.

⁸ "The Dead of the Cabinet," an oration delivered at Petersburg, April 24, 1856.

Richmond, with others of their own age, and there young Upshur took his early lessons at public speaking.

He says that Upshur "had brought to the study of law a mind richly stored with all the learning of the academies, and his information was so arranged that, like a well-ordered arsenal, the various weapons of attack and defence were readily seized upon as the occasion required. He used, with force and power, the broad sword of Richard, or the keen scimeter of Saladin. He had but to appear at the bar, and his success was accomplished." From the displays of eloquence made in this debating society "it took but a small share of the spirit of philosophy to foretell the future that awaited him."⁹

After two years' study in the office of Mr. Wirt, Upshur was admitted to the bar in 1810. Now began the most trying time of his life. The days that followed were full of hardship and of toil. His father, Mr. Littleton Upshur, died at "Vaucluse," August 27, 1811, at fifty-five years of age, leaving his estate somewhat encumbered. Young Upshur immediately set to work to rid himself of debt. Mary Upshur Sturgis says, in the *Magazine of American History*,¹⁰ that "it is a well-known fact that for one entire season he subsisted on bread and cheese purchased at a neighboring shop, while his sleeping apartment was the summer house in a garden in Franklin Street; all this in rigid resolve to free himself from debt—debt incurred for his collegiate expenses, repaid afterwards when the family estate had been happily engineered through all its vicissitudes—the good son and brother resolutely refusing one cent therefrom while his mother lived or his sisters were helpless." The social life at the Virginia metropolis was then in its hey-day, yet Mr. Upshur graced it rarely with his presence. When he appeared in society he was costumed plainly, but as became a gentleman. He preferred to lead a quiet life of study, preparing himself for the demands the future would make upon him, rather than engage in

⁹ Letters and Times of the Tylers, Vol. I., page 222. Dr. Lyon G. Tyler.

¹⁰ Vol. I., 1877.

the pleasures of society. He was, however, a member of Jerusalem Lodge of Ancient Free and Accepted Masons, which is now extinct in Richmond, and at one time master of this lodge.

Surrounded as he was by such distinguished men as Mr. Wirt, Mr. Wickham, Mr. Hay, Mr. Call, Mr. Warden and Mr. Randolph, one might well feel misgivings for Upshur's success. His experience at the bar of Richmond appears to have been a very successful one, however, and within a short time he rose to a position of prominence. The records of the Hustings Court of the city of Richmond show that on motion of Mr. William Marshall, the Attorney for the Commonwealth, Abel P. Upshur was appointed Assistant Attorney, on the 18th of May, 1816. On the 10th of June, in the same year, he was elected full Attorney, by a majority of the votes of the Common Hall, to succeed his principal, Mr. Marshall, who had died in the interim. He served as Commonwealth's Attorney for nearly seven years. We are told that his style of speaking was "unexceptionally good, and his arguments forcible; they were set forth in sentences remarkable for terse and vigorous language." "He was a lawyer of recognized ability, a clear and lucid reasoner, a forceful speaker—more of the style of Webster than of Clay, however, for he is said to have used few gestures."¹¹

After practicing law in Richmond for thirteen years, Mr. Upshur removed to his patrimonial residence, in Northampton, and announced himself a candidate, at the spring elections of 1823, for the House of Delegates. He was elected by a good majority, and in November, 1824, returned to Richmond, wearing the laurels of his first political triumph; not as a poor, unknown law student, but as the representative of one of the oldest counties in Virginia, and a member of the most aristocratic law-making body in America. Here he associated with and matched his abilities against such men as Linn Banks, of Culpeper, Speaker of the House for twenty years; William F. Gordon, whose plan for representation was adopted by the Convention of 1829-'30 as a compromise to the one

¹¹ Mr. T. T. Upshur.

offered by Upshur; ¹² John Tyler, who had lately returned from a service of five years in Congress; and many others of exceptional ability. Mr. Upshur immediately took a prominent position among his contemporaries, and many anecdotes are related of his eloquence, his power, and his wit. "The most powerful speech of his life that I heard," says Mr. G. W. Munford, "was delivered in the House of Delegates on the proposition to repeal the law which prohibited a man from marrying his wife's sister. (Named in the Statutes "The Incestuous Marriage Bill.")

"At that time old General Samuel Blackburn was a member from the county of Bath. He was a remarkable man, too, in his day, a grim, morose old gentleman, who had a peculiar intellect of his own, which displayed uncommon powers, but delighted most in cutting hits upon other members, and his blows had been given so hard, and repeated so often, that he became a terror to the young, and the old avoided encounters with him. He had never failed to turn the laugh upon his antagonists, and make them subjects of ridicule and of mirth. Mr. Upshur had delivered a masterly effort in favor of the bill before the house. When he concluded, having delighted all beyond measure, the effect was manifest upon the beaming countenances of his audience, and in the quivering tear that hung on the undried lid, and which rough men were ashamed to wipe away lest they might unfold their weakness. General Blackburn undertook to dispel the illusion, and by the employment of his old weapons to break the force of the argument. He let slip all his dogs, and attempted to worry the game by snapping and barking, but as long as he confined himself to howling at arguments, which were untouched and unimpaired, a playful smile only lighted up Mr. Upshur's face. At length, however, he took another tack, and assailed his personal appearance, drawing upon his fancy for imaginings derogatory to his personal character, and he essayed to laugh him to scorn, and throw him into contempt. Then I saw the great man's bosom heave, and his countenance seemed to grow

¹² Minutes of Virginia Constitutional Convention, page 705.

radiant with a glow—the inspiration of the orator filled his soul. Upshur replied in tones that moved the hair on one's head, and told that his blood was up. He was as calm as he is who, in danger, knew no fear. With measured step and slow, he stalked along, he balanced his words in his hands to see that they were well chosen and of the proper weight. There was a solemnity around that you could feel. He kept removing the little impediments from his path, and as he advanced he grew warm, energetic, chaste, sublime, and when at last he had acquired the proper pitch, and felt that the keynote had roused his brain, he turned upon his foe—

“ ‘And, with a withering look,
The war denouncing trumpet took,’

and his words hissed and scorched. Then he left, as it seemed, the hateful theme, and he would come back to the subject in debate, and with a mellow voice, soft tones were dropped, as if the lighter shades were thrown in to make the darkness gloomy and the night more black. Then he would serenely recall the imputations on his person and character that had roused his ire. Assuming the tones with which he first began, he drove right onward, and still he kept his wild, unaltered mien, while each strained ball of sight seemed bursting from his head.

“I never shall forget that day. I never shall forget the look of the denounced and discomfited assailant. I never shall cease to remember the spell which bound the hearers, and how men gave expression to their feelings by pressing around the speaker when he had concluded, giving him the cordial grip of the sympathetic hand. Such is a faint effort to give you some idea of the roused and animated Upshur.” This speech was never completely reported, and, as he had no notes, it is lost, except to the memory of those who heard it.

When thirty-six years of age Mr. Upshur married his cousin, Elizabeth A. B. Upshur, daughter of John Brown Upshur, of Accomac county, Va. The issue of this marriage was an only child, Susan. In the same year (1826) his uncle, Judge George Parker,

died, and on the 10th of December the Legislature appointed Abel P. Upshur to fill the vacancy thus caused on the bench of the general court. As a judge he was unsurpassed by any on the bench in his day, and his decisions are remembered as the most able ones delivered in the district.¹³ His worth may be summed up in the words of Wise, who said, "He was a large, comprehensively profound jurist."

Mr. William Archer Cocke, nephew of United States Senator William S. Archer, witnessed a very striking scene in Judge Upshur's court while he was a student at William and Mary College. He says that a young soldier attached to the regiment stationed at Fortress Monroe was arraigned before Judge Upshur for trial, under the charge of larceny. "As the man was about to be placed on trial, with leave to plead, some one from the fort said he wished to present an order from the Colonel. 'What is it?' said Judge Upshur. It was handed to the Judge, and was an order demanding the delivery of the prisoner to the bearer, stating that he was demanded as a United States soldier, subject to martial law, and that the court must return him to the Colonel. Judge Upshur wrote on the order, and handed it back to the bearer, 'The prisoner has been indicted for violating a law of Virginia, the penalty is the penitentiary; if the prisoner is found guilty he will be sentenced, and sent to the penitentiary; if not guilty, he will be discharged,' saying, 'Deliver this to the Colonel,' and saying to the Commonwealth's Attorney, 'Mr. Southall, have the prisoner arraigned, and proceed with the trial.' Upshur was much applauded. He was as quick as a flash, as determined as was necessary, and as firm as the old walls of the fort from which the prisoner had deserted. The jurisdiction of the court was unquestionable, though some weak-minded Federalists differed from the light of the Bench."

Judge Upshur continued the practice of law and as Judge of the District Court until elected, in 1829, to the convention called to revise the State Constitution. Upshur's position in this convention,

¹³ Mr. T. T. Upshur.

composed of Monroe, Madison, John Marshall, Doddridge, Gordon, Leigh, Tyler, John Randolph, and others, the first men of the State, if not of the Union, was conspicuous. It was the most famous body ever gathered together in this State of famous gatherings of great men. The convention was composed of three parties, each of which had its solution of the basis of representation. The first, and most numerous, contended for a basis of white population; the second contended for a basis of white population and taxation combined, and the third for a basis of Federal members.¹⁴ It was reserved for Judge Upshur to solve the problem, and after the convention had been dead-locked, and progress blocked for over a week, he, together with his colleague from the Eastern Shore, Thomas R. Joynes, in a spirit of conciliation, offered a plan which effectually solved the question. After some changes, mainly as suggested by Mr. Gordon, his plan was finally adopted in preference to those submitted by Marshall, Leigh and others.¹⁵ John Randolph, of Roanoke, arose and taunted the remaining members of the convention by saying that they had all spoken and wrangled for a week or more without coming to any conclusion, and that they could agree on nothing until "the fishermen of the Eastern Shore proved to be the champions of all that is sacred to this ancient Dominion, and have shown us the way. Our defence has fallen upon that 'figure of Arithmetic,' of Accomac (Joynes), and that 'figure of Rhetoric,' of Northampton (Upshur)." The plan, as finally adopted, was broader, deeper, included more, and was more satisfactory than that offered by any other.¹⁶ It was the worthy product of a deep and far-seeing mind.

In this convention Mr. Upshur delivered a long speech on whether, in the apportionment of representation in the House of Delegates, regard should be had to the white population exclusively, or in place of the word "exclusively," the words "and taxation combined." He argued that the majority should not rule exclusively;

¹⁴ Minutes, Virginia Constitutional Convention, page 539.

¹⁵ Minutes, Virginia Constitutional Convention, pages 547, 705.

¹⁶ Cooke, page 570.

that the minority's rights should be considered as truly as the majority's. This was "the one surpassing speech which carried the question."¹⁷ It took him two days to deliver it, and, at the request of his friends, it was published in many of the papers and collections of speeches of the day.

During the discussion he said, "I am laboring for *all* Virginia, and dear to me as is the hope that my own native county may have her separate representation under the new Constitution, I will not permit that, nor any other consideration merely local or temporary, to oppose any obstacle to a just, fair and wise arrangement of this perplexing subject."¹⁸ In reply to this speech, Mr. Doddridge said, "I feel myself both relieved and delighted by the frank and friendly course of the gentleman from Northampton, and particularly by that sincerity which the gentleman displayed towards those opposed to him. He has furnished us an example which I hope to imitate, and he has lessened our labors, by such a candid statement of the principles relied upon to support the amendment under consideration, as leaves no room for doubt." "His great speech on the apportionment of representation," said Mr. Tyler, in "The Dead of the Cabinet," "stands almost, if not quite, unrivalled by any other delivered in the convention. For thorough development of the conservative principles on which the foundation of the government should rest, and in which it may be said to have its origin, or for power of illustration and for logical acumen, that speech may be regarded as constituting a monument to Abel Parker Upshur which will last as long as the language in which it was uttered is spoken. No man, however extensive his reading on the science of government, can rise from its perusal without decided benefit and improvement." Upshur was a member of the Committee on the Executive Department. It was his wish to increase the Senate so as to make it more of a check upon the House of Delegates. He was also in favor of the Governor being elected by the people, rather than by the Legislature, and to serve one term only.

¹⁷ Seven Decades, page 199.

¹⁸ Minutes, Virginia Constitutional Convention, page 554.

Under the new Constitution Mr. Upshur was made Judge of the Third Judicial District, April 18, 1831, and served on the bench until President Tyler called him to his Cabinet as Secretary of the Navy, September 13, 1841.

While Judge of this Third District Upshur occupied his leisure in writing a small octavo volume of 132 pages, *An Enquiry into the Nature and Character of Our Federal Government*. It was written to appear in some of the periodicals as a review of Judge Story's Commentaries on the Constitution of the United States; but the author finally decided to present it to the public in book form. Accordingly it was published at Philadelphia in 1840, and its success was such as to justify a second edition, which was published at Petersburg, Va., in 1863. It was reviewed in some of the principal periodicals in the country, and recommended, in the strongest terms, to public favor. At the time this work was published, the author, whose name was not widely known, had not been elevated to a position of any prominence, and there were no collateral circumstances connected with his authorship to attach any particular importance to the political doctrines and opinions therein expressed and maintained. But as soon as the Judge laid aside his robes, and exchanged his seat on the bench for a seat in the Cabinet, his opinions were possessed of a weight and importance such as to recommend them to the consideration of every one. "Judge Upshur had long been known as an able writer, and one of the most polished contributors to the periodical literature of the country—upon which field his labors before the public, other than professional, had principally been expended."¹⁹ The style of the volume is clear and vigorous; the language grammatical and apt; its reasoning is adorned with a perspicuity and strength which clearly indicate that the writer had a scholar's regard of the advantages which arguments derive from a logical agreement of parts. The first eighty pages of this book show "that the Constitution is federative in the power which formed it, federative in the power which adopted and

¹⁹ *Southern Literary Messenger*.

ratified it, federative in the power which sustains and keeps it alive, federative in the power by which alone it can be altered or amended, and federative in the structure of all its departments; and that in no respect can it be called a consolidated or a national government." The rest deals with the question, "Who is the final judge, or interpreter in constitutional controversies?"

Upshur was a strict constructionist, and a staunch advocate of States' Rights doctrines. He thought that all cases not proper for judicial investigation, such as questions between a State and the United States, ought to be decided by each State for itself. It was with a prophetic significance that he said that there was "a natural and necessary tendency in the Federal Government to encroach on the rights and powers of the States. As the representative of all the States, it affords, in its organization, an opportunity for those combinations by which a majority of the States may oppress the minority, against the spirit, or even the letter, of the Constitution. There is no danger that the Federal Government will ever be too weak. Its means of aggrandizement are so numerous, and its temptations to do so are so strong, that there is not the least necessity to *imply* any new power in its favor. The States, on the contrary, have no motive to encroach on the Federal Government, and no power to do so, even if they desired it. We should incline, therefore, in every doubtful case, in favor of the States."²⁰ The latter part of his book examines certain features of the Constitution, without regard to their bearing upon politics, but rather as matters of general concern. Calhoun said that Judge Story was completely demolished in this review, and that there was nothing left to be said in behalf of the theory of the States' Rights men, and once expressed regret that Upshur could not have been matched against Webster, for "in eloquence he was his equal, and in reasoning his superior."²¹

Upshur was opposed to the veto power of the President, and the system of checks of our Constitution. He thought that they inter-

²⁰ An Enquiry into the Nature and Character of our Federal Constitution.

²¹ Judge William Archer Cocke.

ferred too much with legislation. He was opposed to re-eligibility of the President, because it was too great a temptation for him to use his powers corruptly that he might secure his reelection. He objected to one man holding "so vast and dangerous a power" as that of appointment to office. The cause of these faults he attributed, in a large measure, to the "confidence which the country reposed in the virtues of Washington, who alone, of all the truly great of the earth, never inflicted an injury upon his country, except only such as proceeded from the excess of his own virtues. His known patriotism, wisdom and purity inspired us with a confidence, and a feeling of security against the abuses of power, which has led to the establishment of many precedents, dangerous to public liberty in the hands of any other man."²²

The selection of Judge Upshur as Secretary of the Navy in 1843 met with general approbation; it was especially fitting on the part of President Tyler to call to his Cabinet this ablest of Virginia jurists. At this time the Navy Department was miserably mismanaged, and abounded with abuses and corruption. The report of the chief of the Medical Department showed that out of the appropriations for medicine, there had been purchased blue frock coats, cassimere pantaloons, whiskey, stationery, hay, corn, beef, etc., etc., to the amount of four thousand dollars, all of which articles were purchased from particular persons, and double prices paid.²³ Upshur entered upon the performance of his duties with a patriotic determination to make the efficiency of the Navy what it should be. His reforms were broad and sweeping. To-day the sailors' thanks are due to Secretary Upshur for abolishing flogging. Judge Upshur "practiced a system of rigid economy; but while the expenditures were limited to the actual necessities of the service, new efficiency was imparted to the Navy. To him that department is greatly indebted for its present organization, which places at the head of bureaus veteran commanders, who, from their intimate acquaintance with the wants

²² An Enquiry into the Nature and Character of our Federal Government.

²³ Speech of Mr. Meriwether, of Georgia.

of the service, are best qualified to provide for them. Under him also rose that structure (the Hydrographical Survey and the National Observatory), over which was placed Lieutenant Maury, whose name has filled the scientific world, and to him is also due the organization of the home squadron, which, while serving as a *costa garde*, watches over and protects the commerce of the country in neighboring waters."²⁴

His first report recommended a large increase of ships, seamen and officers, involving an additional expense of about two and one-half millions of dollars in the naval branch of the service.²⁵ After much discussion, the increase was carried by one vote, in spite of the protests of Mr. Woodbury, Secretary of the Navy under Jackson, and many of the leading members of both houses of Congress. Upshur's successors justified him in taking this step by demanding even larger appropriations. The naval policy of the United States has always been a question of party division, the Federal party favoring a strong and splendid navy, the Republicans advocating a moderate establishment, adapted to the purposes of defence more than offence. Under the administration of Tyler, all the branches of the government being of the same political party, and retaining the early principles of the party under the the name of Whig, the policy for a great navy developed itself with great vigor.²⁶

Mr. Wise says that, upon the resignation of the Cabinet in 1843. Mr. Tyler had "ready at hand new men, unhackneyed politicians, of the best calibre, far superior in qualifications to those who had retired. Such a Cabinet, before or since, has never been formed in the United States, for either natural powers or cultivation in law and letters, and for experience in the applied science of government. Each was mighty, and it is hard to say which was mightiest; each was a full peer of Webster, and we would like to know another Cabinet of which that can be said." Mr. Upshur then presided over

²⁴ "The Dead of the Cabinet." See *Southern Literary Messenger* for several interesting articles on the Navy under Upshur.

²⁵ Thirty Years' View.

²⁶ Nile's Register, Seven Decades, etc.

the Navy Department. He was competent, however, to fill any office under the government, and had improved his department by judicious reforms which are destined long to be felt and acknowledged; accordingly, he was placed at the head of the State Department on the resignation of Webster. The same industry and broad-minded principles characterized him in this department as had been so effective in the Department of the Navy.

The administration of Tyler is especially important—and Upshur was one of its most important members—in that it wisely and well settled the Northeastern Boundary question; the Caroline question, or the right of search; the Bank and Tariff questions, and the Southwestern, or Texas question; concluded the Florida war, and passed an act authorizing armed occupation of the Territory in dispute. It settled the disturbances in Rhode Island, and maintained the established law, which ought to have been a precedent for establishing the position that the States were not to be questioned by the Federal authorities as to the supremacy of their established State governments.²⁷ It required the best men the country could produce to deal with these questions, the effects of which would not end with their tenure of office, but be transmitted to posterity, which influence the policy of the nation for generations to come, and the results show that the best men were brought forward to deal with and to settle these disputes.

Upshur's messages are "models of state papers, and beautiful blocks in the monument of his fame." The morning after his first report was sent in Hugh S. Legaré inquired of one of the Representatives from Virginia why Mr. Upshur had not been sent up before to magnify Virginia's rightful claim to a race of pre-eminent men. When told that the reason was that the Mother State of the greatest men had so many like him she could not send all her jewels at once, he said that he had read his report once, and that it was so pure in its style, so perfect a model of what a message ought to be, that he had read it twice before rising from its

²⁷ Seven Decades.

perusal. Upshur was "without ambition for office or place; but when placed at the head of the Department of State, the breadth of his field of action awakened his giant mind into full play, and his desire for the glory and grandeur of the republic aroused all his latent powers."²⁸

February 28, 1844, dawned clear and cold. On this day Commodore Stockton had invited a numerous and gay company—about four hundred in all—composed of the members of the Cabinet, both houses of Congress, and citizens, with a great number of ladies, to repair on board the steamer man-of-war *Princeton*, then anchored in the Potomac River, below Alexandria, to witness the working of her improved machinery,²⁹ and the fire of her two great guns, which, with their 225 pound shells, could hit a target a quarter of a mile distant. The vessel and her guns were the pride of the Commodore, and had been made and tested under his especial directions. The vessel had proceeded down the river below Mount Vernon, and was on her return, the machinery working beautifully, the guns firing well, and the exhibition of the day happily over. It was about four o'clock in the evening, and a sumptuous collation had refreshed and enlivened the guests. They were still at the table, when word was brought down that one of the guns, the "Peacemaker," was to be fired again. Immediately the company rose and went on deck to observe the fire, the long and vacant stretch in the river giving full room for the utmost range of the ball. "Let them remove the dead men," said Mr. Upshur, laughingly, pointing to the empty champagne bottles, as he rose from the table in response to the summons. The President and his Cabinet went foremost, but Mr. Tyler was called back; the others went on and took their places on the left of the gun, pointing down the river. The officers caused the gun to be worked to show the ease and precision with which her direction could be changed. Then the hammer was pulled back, there was a tap, a flash, followed by a loud report, and all was still.

²⁸ Judge W. W. Crump.

²⁹ A screw propeller.

The great gun had burst about three or four feet from the breech. Mr. Upshur, together with Mr. Gilmer, Secretary of the Navy; Commodore Kennon, Mr. Gardner, of New York, father of Mr. Tyler's second wife; Mr. Maxey, who had been United States chargé at the Hague, and two seamen were killed.³⁰ Commodore Stockton and many more were wounded, but they recovered. The ship proceeded on its way to Washington, and anchored off the city. The news was flashed over the country like wild-fire, and everywhere the people expressed the greatest grief at the sad catastrophe. Flags were hoisted at half-mast on all the flag-staffs and shipping in the harbor. Legislative bodies adopted resolutions expressive of sympathy, and adjourned out of respect to the memory of the dead. The entire nation was overcome, and in every part of the country there was profound grief.

Mr. Upshur's death was caused by the lodgment of a heavy segment of the gun upon his breast. There was only a slight abrasion of the skin upon his forehead, and no interruption of the peaceful, eminently benevolent smile—the prominent characterization of his countenance in life.

"The heavy iron weight, which so suddenly stilled the current of his life, drove the hands of his watch immovable into the dial. Thus it will doubtless stand many a year to come—

" 'The horologue of eternity!'

recording, in fatal fixedness, the dire date—Twenty Minutes to Four O'Clock of that Twenty-eighth Day of February, Eighteen Hundred and Forty-four." ³¹

R. E. McCABE.

³⁰ A small negro servant belonging to Mr. Tyler was also killed.

³¹ This description of the disaster on board the *Princeton* is taken from *Nile's Register*, *The National Intelligencer*, and *Magazine of American History*.

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Etc.
My thanks are especially due Dr. Lyon G. Tyler for the valuable assistance he has rendered, also Mr. T. T. Upshur and others.

JOHN LEWIS, THE PIONEER OF AUGUSTA COUNTY.

BY G. H. FIELDING.

THE first passage of the Blue Ridge by the early settlers of America was effected by Spottswood, at the head of a troop of horsemen, in August, 1716.¹ In commemoration of this event, Spottswood was knighted, and he presented to each of his party, of about fifty men, a golden horseshoe, on which was inscribed, "*Sic junat transcendere montes.*" The glowing account given by Spottswood's party, or, as they were afterwards styled, the "Knights of the Golden Horseshoe," of the fertile valley beyond the mountains, excited a spirit of enterprise and adventure in the people of Eastern Virginia, and even among those as far north as Pennsylvania. The exploring "knights" encountered no Indians on their entry into the valley, and they spread abroad reports that the mountains east and west, which enclosed this lovely and fruitful valley, presented an almost insurmountable obstacle to the entrance of the savages, and that defenceless families might live there in security and plenty, enjoying not only the necessities, but also the luxuries of life. Accordingly, in 1732, sixteen families from Pennsylvania crossed the Potomac and settled near the present town of Winchester.

Among those whose attention was directed to the valley was John Lewis, who had been for some time in Pennsylvania, quietly awaiting the arrival from Europe of his wife and children. He penetrated more than a hundred miles up the valley, and located in the cluster of hills where Staunton now stands.

This remarkable man was born in the north of Ireland,² and was descended from a Welsh family. Of those now in Ireland bearing the name, there is not a family that does not directly trace itself to a Welsh origin. In Donegal county, Province of Ulster, Ireland.

¹ Peyton's History of Augusta County.

² Green's History and Families of Kentucky.

where he resided until fifty years of age, he commanded the confidence and respect of the people, occupying a position of influence, and taking the leading part in society and county affairs, which had been traditionally the rôle of the O'Donnells, Chichesters and O'Doghertys. In youth he was of impetuous temper, but the varied experience of an active life had taught him to control his spirit. He was endowed with a high order of intellect, and a valorous soul, and soon became noted for his virtuous principles.³

The rank of John Lewis was that of an esquire. He had inherited a handsome estate, which he, by industry and frugality, increased until he became the lessee of a contiguous property of considerable value. He married Margaret Lynn, daughter of the Laird of Loch Lynn, who was a descendant of a chieftain of a once powerful clan of the Scottish Highlands. By this marriage he had five sons, Samuel, Thomas, Andrew, William, and Charles. An affair, deplorable as it may seem, but one honorable to his spirit of manhood, terminated his career in Ireland.⁴

The emigration of John Lewis to America was the result of one of those bloody affrays which at that time so often occurred, disturbing the repose, and destroying the happiness of Irish families. The owner of the fee out of which the leasehold of Lewis was coined, a nobleman of profligate habits, seeing the prosperity of the lessee, and repenting the bargain he had concluded, attempted, by the aid of a band of ruffians, hired for the purpose, to take forcible possession of the premises. To this end, he surrounded the house with his ruffians, and called upon Lewis to evacuate the premises without delay. This demand was instantly and indignantly refused by Lewis, who had in the house a sick brother, a wife and infant children, but no aid save such as could be afforded by a few faithful domestics. With this small force, scarce equal to one-fourth of his assailant's, he resolved to maintain his legal rights at all hazard.

³ Howe's History of Virginia.

⁴ Howe's History.

The enraged nobleman began the affray by discharging his fowling-piece into the house, by which the invalid brother of Lewis was killed and Margaret herself severely wounded. Upon this the enraged husband and brother rushed from the house, attended by his devoted little band, and soon succeeded in dispersing the assailants, though not until the author of the mischief, as well as his steward, had perished at the hands of Lewis. By this time the family were surrounded by their sympathizing friends and neighbors, who, after bestowing every aid in their power, advised Lewis to leave the country. This action was rendered necessary by the high standing of his late antagonist, the desperate character of his surviving assailants, and the want of evidence by which he could have established the facts in the case. He, therefore, after drawing up a detailed statement of the affair, which he directed to the proper authorities, embarked on a vessel bound for America. It may be proper to remark here that when the circumstances of the affray became known, after a due investigation, a pardon was granted to Lewis.

The permanent settlement of the founder of Augusta county was in the vicinity of the twin hills, "Betsy Bell and Mary Gray," so called by him, or some other early settler, after two similar hills in the county of Tyrone, Ireland. The place was a mile east of the present site of Staunton, and was remarkable for its singular beauty, and freshness of scenery, and was called by him "Bellefonte," from a bold, bright spring issuing out of the hillside. This name it still bears. He was first to occupy the scene; no axe had ever rung through the forests, no plowshare had turned the soil; nature had delivered it into his hands in its untouched virginity, and it was for him to say where, how, and to what extent labor should mingle with, adorn and enrich it. Here this man, nurtured in a high civilization, but, by ill-fortune, deprived of his position, and banished from his country, established himself. Here, amidst the deep shadows of the wilderness, he built a stone dwelling, which, with its flanks, formed one side of Fort Lewis; and in this half dwelling, half fortress, he maintained a long struggle with the savages, and

under its well-constructed walls the infant colony grew, in time, strong enough to defy every foe.

In this hitherto unvisited region the old hero spent the remaining years of his life, finally closing his eyes upon a country blooming in cultivated fertility, and brightened by an advancing civilization. In order that the man whose character is to be portrayed in this biographical sketch may be set forth, it is necessary to know something, at least, about the manners and customs of the people with whom he was so intimately associated.

The first settlers were, as their names indicate, Scotch and Irish; but soon some English, and many Germans joined the community. As the country, during this influx, was without roads, immigrants made their way on foot or horseback, following the Indian or buffalo trails, carrying their goods upon their backs, or in packs lashed to horses or mules. The experience of the women was the most severe, though, doubtless, everything was done to ameliorate their situation. These immigrants are represented to have been men of staid habits, of high spirit, and untiring energy.

The houses of the pioneers were of the rudest kind. They were built of round logs, and were covered with "clap-boards." The flooring was of split poncheons smoothed with a broad-axe. The furniture was rudely fashioned from timbers of the forest; their beds were stuffed with feathers from the backs of their geese, and not until 1742 did they have such luxuries as plates, dishes and spoons of pewter, and bowls, trenchers and "noggins" of wood. In front of their houses was a garden cultivated in flowers, and nearby was a truck patch in which they grew vegetables.

The first two public buildings which were erected were a church, the "meeting-house," and a school-house. Here religion and the elements of an education were taught by the same instructor—a Presbyterian clergyman. Those pious, patient men who brought to the wilderness the cultivation and refinement of Europe became the preceptors, and gave their pupils a thorough, though not extensive, course of instruction. In speaking of the conditions of the rapidly developing country, one could not, with fairness to the

founder of the settlement, omit the mention of the church. Within five years of Lewis' settlement of Bellefonte, so great was his desire for the ordinances of religion that he sought to secure the services of a Presbyterian minister. They were encouraged by the Presbytery of Donegal, Ireland, but the first permanent minister to labor among these industrious and spirited people was Rev. John Craig, who was ordained in 1740, and who immediately began his ministry at Augusta and Tinkling Springs Churches.

These churches were built during Craig's ministration, and, because of the liberality of the people of Augusta Church, he had no trouble in building. But according to Mr. Craig's way of thinking, the people of the other section were a stiff-necked and perverse generation. He says, "That part now called Tinkling Springs was most in numbers, and richer than the other, and forward, their leaders close-handed about providing necessary things for pious and religious purposes, and could not agree, for several years, upon a plan or manner, where or how to build their meeting-house, which gave me great trouble to hold them together. A difference happened between Col. John Lewis and Col. James Patton, which was hurtful to the settlement, but especially to me. I could never bring them to friendship with each other. This continued for thirteen or fourteen years, till Col. Patton was murdered by the Indians. After his death, Col. Lewis was friendly with me till he died."

It is impossible to tell what the feud was about, but it probably related to the location of Tinkling Springs Church. Mr. Craig and Col. Lewis wanted the church built north of the site finally selected, while Col. Patton and most of the people insisted on Tinkling Springs as the place. At last Mr. Craig appealed to James Pilson, an aged man, to settle the controversy, and when the latter gave the deciding vote in favor of the present site, the irate pastor exclaimed, "Are you, too, against me, Jimmy? Well, I am resolved that none of that water shall ever tinkle down my throat." He kept his word.

There was no Established Church in Augusta until nearly fifteen years after the foundation of the colony. One reason, at least, may be assigned for this. Education in the Episcopal Church is a neces-

sary qualification for administering the affairs of both Church and State, and both the education and the population of the valley, to a great extent, were of the Scotch-Irish, or Dissenting, element. However, in 1745, steps were taken to introduce the Established Church in the county, and, accordingly, a vestry was elected. The committee was appointed to purchase land for a glebe. They advertised, and let out on contract the public buildings, and at the meeting of the Vestry Board, August 22, 1748, made this order:

"John Lewis, gentleman, having undertaken the public buildings of Augusta Parish for £140, ordered that he be paid by John Madison the trustee for the sd. parish, on raising the said buildings, £74. and the remainder on completing the same, unless he want money to carry on said work, which the said Madison is ordered to supply him with."

The colony of Augusta from 1732 to 1745 was an interesting spectacle of undisturbed happiness, and quiet progress, notwithstanding the primitive condition of the community, and its remoteness from commercial centres. Of luxury there was little or none, unless it might be termed a luxury to be without want, without beggars, and without the diseases which attend idleness and opulence. There were no diamonds nor pearls, but plenty of bright eyes and rosy cheeks; no rustling silks, nor brilliantly colored velvets and satins, but plenty of woolen stuffs, recommended by their warmth and healthfulness; no theatres, operas, fancy balls, and saloons, nor their attendant licentiousness, but plenty of fun and frolic. When one considers the condition of these people, that they married and multiplied, that their virtues have been confirmed by time, and that the more they increased, the more examples they have furnished to animate succeeding generations, one feels how impossible it is to describe the happiness of this favored people. They were no other than favored of heaven. They recognized God in everything, and constantly approached him with gratitude and veneration. Religion coöperated with nature to soften and polish their manners.

Col. Lewis being of a mature age, educated, refined and gentlemanly in his bearing, had more to do with the preserving of order,

and the moulding of opinion in the colony than any other man. He and his wife were not adventurers, who came to America seeking political or social position. They were the innocent victims of adverse circumstances, and had crossed the sea to change their environments, but not their characters. John Lewis was a man endowed with most noble qualities. Possessing a martial spirit and heroic courage, he was formed to excel in war; yet he was the ardent friend of progress, of public improvements, of trade and commerce, and was wise in his conceptions, and persevering in his plans.

Lewis and the early settlers recognized, to the fullest extent, the rights of the Indians to the country of their nativity. America, until the discovery by Columbus, had been unknown to the rest of the world, and it, therefore, belonged to no foreign prince. For this reason, the leaders of the colony sought to acquire lands by purchase from the natives. They soon ascertained, however, that no tribe residing in the valley claimed exclusive ownership to the soil, or set up a right to dispose of it by sale. The whites then were compelled either to withdraw or to settle upon the lands, and await the issue of events. The latter course was adopted. Jefferson, in his *Notes on Virginia*, says, "That the lands of this country were taken by conquest is not so generally a truth as is supposed. The upper country (*i. e.*, the Valley) we know has been acquired altogether by purchase, in the most unexceptionable form." The friendly relations that so long existed between the Indians and the Lewis family afford sufficient proof of this fact. John Lewis, however, was not satisfied with this. He secured a title from William Beverley, son of Robert Beverley, the historian of Virginia, also lawyer and Clerk of Essex County Court, to 2,071 acres, a part of the Beverley manor grant. This transaction took place on February 21, 1738, and the deed is now on record in Orange county, within which the grant then lay.

Thus, for many years, friendship and good-will existed between the neighboring Indians and the white settlers, until the whites so increased that they became a formidable colony. It was then that

the jealousy of the red men became aroused, and a war broke out, which, for cool, though desperate courage on the part of the whites, and ferocity, cunningness and barbarity on the part of Indians, was seldom equalled in this country.

John Lewis, by this time, was well stricken in years, but his sons were thoroughly qualified to take a leading part. This fact is proven by the activity of each one for the protection of the frontier.

The jealousy of the Indians, however, was not the only cause of the bloodshed which began in 1753. John Lewis and his family were kindly disposed to them, but many allowed them no rights, not even the rights of barbarians. In June, 1754, a party of Northwestern Indian warriors stopped at the home of John Lewis, on their return from the South, where they had been satisfying their revenge upon the Cherokees. Some of his neighbors were present, whose families had suffered from attacks of the Indians. They insisted upon the party remaining, and exhibiting their dances. Upon their consenting, they left and employed the time until dark collecting the neighbors who had suffered from Indian murders. A beef was killed, and a large log fire made, around which the Indians assembled, cooking and eating. They danced and drank whiskey until the lookers-on were satisfied with their antics, and then started on their way homeward a few miles, where they lodged in a barn for the rest of the night. As soon as they were sound asleep, a band of whites were upon them, with their axes, knives and guns. Only one escaped. For that act of foolhardy cruelty many Virginians paid the bitter penalty.

From this time forward, to the opening years of the Revolution, what was then the county of Augusta constituted the battle-grounds of our border warfare. Many words of praise could be spoken of the bravery of these frontiersmen, but many of these deeds have been written by a master hand, while many others will never be recorded. Forts were built, companies formed and commissioned by the Governor, and men were undergoing the most severe training for the protection, not only of their own homes, but also of the

homes of those farther east. In after years this training was found most beneficial. One instance of courage which happened directly in the Lewis family will suffice.

When the Legislature fled to Staunton, the Governor was the guest of Col. William Lewis, son of John Lewis. During his first dinner, his Excellency expressed some uneasiness lest Col. Tarleton might swoop down upon them, and take them captive. Mrs. Lewis, who was at the head of the table, said, with some animation, "Do not allow yourself, Mr. Governor, to be disturbed by such apprehensions. I have sent three sons to Rockfish Gap, and Col. Tarleton will never cross the mountains except as a prisoner or a corpse."

At the time when Tarleton drove the Legislature from Charlottesville, the elder sons of Col. William Lewis were absent with the Northern army. Three sons, however, were at home, whose ages were seventeen, fifteen and thirteen years. Col. Lewis was confined to his bed by illness; but his wife, with the firmness of a Roman matron, called them to her, and bade them fly to the defence of their native country. "Go, my children," said she, "I spare not my youngest, my fair-haired boy, the comfort of my declining years. I devote you all to my country. Keep back the foot of the invader from the soil of Augusta, or see my face no more."

When this incident was related to Washington, shortly after its occurrence, he enthusiastically exclaimed, "Leave me but a banner to plant upon the mountains of Augusta, and I will rally around me the men who will raise our bleeding country from the dust, and set her free."

Such was the spirit of freedom that the founder of the colony had instilled into the hearts of his own family! such was the spirit of liberty which pervaded the entire settlement!

John Lewis and his sons took a leading part in all the enterprises of the county. The first court-house was built in 1745. On the first day of the court, John Lewis was commissioned magistrate, and on the second, Thomas Lewis was appointed surveyor. He was a man of sound judgment, and, for many years, represented the county of Augusta in the House of Burgesses. He was also a

member of the convention which ratified the Constitution of Virginia,⁵ and afterwards sat, for the county of Rockingham, in the House of Delegates.

Andrew Lewis,⁶ the third son, was commander and general of the Virginia troops at the battle of Point Pleasant. He had a stern, invincible countenance. His independent spirit despised sycophantic means of gaining popularity, which never rendered more than his merits extorted. He was commissioned major, and he conducted himself with such characteristic chivalry that he was deemed worthy to have his statue placed, with others, upon the equestrian statue of Washington, in Richmond, Va.

Mention has already been made of Col. William Lewis, the fourth son, whose bad eyesight prevented his taking an active part in the Indian wars. Charles Lewis,⁷ the youngest son, fell at the head of his regiment, when leading the attack at Point Pleasant. He was the most skilful of all the leaders of the border warfare, and was the hero of many a gallant exploit. Historians fail to say anything of Samuel, the eldest son. Their silence is attributed to the supposition that he died soon after the arrival of his parents in this country.

There was no road leading into the settlement for many years. The founder called together the chief men, and proposed to build one. It was no holiday task; but with the untiring energy of these primitive fathers, and with their energies directed by sound judgment, these improvements were carried on, year after year, with surprising skill and celerity. A good road, for those days, was completed through the mountains as far as the line of Lunenburg county. On the 19th of May, 1749, this order was entered on record by the County Court, "That Jas. Montgomerie and Richard Burton, or any one of them, wait on the Court of Lunenburg, and acquaint them that the inhabitants of Augusta have cleared a road to the

⁵D. S. Lewis, editor of *Spirit of the Valley*, Harrisonburg, Va.

⁶D. S. Lewis, editor of *Spirit of the Valley*, Harrisonburg, Va.

⁷D. S. Lewis, editor of *Spirit of the Valley*, Harrisonburg, Va.

said county line, and desire that they will clear a road from the court-house of Lunenburg to meet the road already cleared by the inhabitants of Augusta."

In 1762 the founder of the county died, thirty years after coming to Augusta, being in his eighty-fourth year. He was a man of superior abilities and virtuous principles, prudent in concerting his plans, and perseveringly vigorous in executing them. The last thirty years of his life were devoted to advancing the interests of the little community which he had founded. His mind was improved by a liberal education, and few possessed greater knowledge of everything capable of forming and qualifying a man for public employment. Tall, vigorous and commanding in figure, he was distinguished for the manly charm of his person, the cordial frankness of his address, the beauty of his conversation, and the noble character of his courage. He was buried at Bellefonte, and an enormous limestone slab, rude and uncut, was placed over his grave, where it still lies half buried. In 1850 this was replaced by a marble slab, bearing the following inscription:

Here lie the remains of

JOHN LEWIS,

Who slew the Irish lord, settled Augusta county,

Located the town of Staunton,

And furnished five sons to fight the battles of the
American Revolution.

He was the son of Andrew Lewis, Esq., and Mary Calhoun,

And was born in Donegal Co., Ireland, 1678,

And died in Virginia, Feb. 1st, 1762.

He was a brave man, a true patriot, and a firm friend of liberty throughout the world.

Mortalitate relicto, vivit immortalitate inductus.

THE LEVEN POWELL CORRESPONDENCE.

CUTHBERT HARRISON TO COL. LEVEN POWELL.

ANNSDALE NELSON COUNTY, M^{ch} 30, '86.

Dear Sir,—

My old Friend mr. Summers of Fairfax calling on me to let me know he is on his way in, have set down to write you, tho. did it so (lately) that but very few Occurrences have since turned up, the principal ones I think are the Violent Savages and inroads the Indians are at present making on us. Scarce a day passes but we have accounts of Mischief done by them in some part of our Settlements. Our Friend Cap^t Abram Hite was on Saturday Week fired on by four Indians near his own House, two of the shot took place, one ball went thro the Fleshey part of his thigh, the Other entered his Hip, and lodged, but has been since extracted. his case is supposed doubtfule but hope he may recover. Our unhappy Acquaintance, Maj^r Charles West, went to sleep in his chair at the Falls sometime ago, & could never be Wakened, tho his hardened & incorrigible Companions attempted it by holding of grog before him—it was but a little while after Maj^r Wales who went off at the same place and nearly in the same way.

We are wholly engrossed here by the Idea of a Separation, nothing else thought of nor any other Object attended to. the terms held out to us by the Assembly are thought reasonable and [I] have no doubt will be accepted, thus are we runing blindly into a Measure that will prove the ruin of the district, to gratify the interested Views of a few designing Miscreants, who instead of posts of Hon^r & profit, merit nothing from their deluded fellow-citizens but infamy and a Halter. M^r William Peyton was a few days past married at the Falls, to whom I cant inform you, tho have been told the name. My Brothers Family except Some of his

Negroes enjoy health. mine is more healthy at present than they have been since the commencement of the fatal Fever in it, which has rendered me so unhappy. that you, my Sister & the Family may enjoy perfect Health & Happiness is the Ardent prayer of y^r Obed Hble Serv,

CUTHB. HARRISON.

Mr. adam Shepherd informed me yesterday that a Negro he had in Care of V. Harrison Was lately dead of a Consumsion.

J. HITE TO COL. LEVEN POWELL.

CRAB ORCHARD July 19th 1786.

Dear Sir,—

I this moment rec^d yours of the 1st of Oct^o Last by M^r Chinn with a half Joe (?). Its not in my power to inform you whether I have rec^d money enough or not for M^r Brent's Land, not remember'g whether I have rec^d any before or not; You may know if more is wanting, if you know what I have rec^d as it will take 66/12 to pay the expense of obtaining a Patent if a balance yet due me pray get it & send it to me. My dear Sir, you dont know how this Country is distress'd for money & of course, I must share my part. I have rec^d your [letter] by Cap^t Greenup. I propose to answer it as soon as possible; the present instant being engaged in rejoicing on the celebration of a Marriage between my Brother & Miss Sally Lewis; We have been much distress'd by the Indians, & as usual your unfortunate friend shares a great Burthen of it. My Brother Abraham Wounded ab^t the 1st of March with 2 balls & lies very poorly with his wounds: also a Negro fellow very badly wounded thro the body now safely recovered; I must return to business, Joseph Jackson & Abram Silvia are in arrears also Jn^o Tyler, Pearie Baily, their business is done & expenses paid long since & its cruel to an injury in them not to forward the money.

You will please to excuse me I am writing on my knee in the

presence of a large assembly of Gentlemen & Ladies. Health & prosperity attend you & your family & accept of my most respectful compliments to you & them I am with the highest Esteem

D^r Sir

Your most Obt^t

Hble Ser^t

J. HITE.

Col. Leven Powell.

RICHARD BLAND LEE TO LEVEN POWELL.*

N. YORK, April 13th, 1789.

Dear Sir,—

We are at present employed in digesting an Impost system, which I hope will be ready for the sanction of the President as soon as he arrives. He is expected here between the 20th and the last of this month. A general harmony as yet prevails in our councils, and I flatter myself that liberality will mark all our measures. Thirteen Senators are now present and near forty members of the other branch. A Tonnage will be laid on foreign bottoms, but not so heavy as to give a monopoly to American ships. It will be so modified as to give them an equal chance in the field of Commerce.—Superior Industry must win the prize. This policy seems to be dictated by our present situation. We depend principally on the impost to raise revenue sufficient to retrieve and establish public credit. This must fluctuate with our trade, and our trade may experience great interruptions if we have not an efficient force to protect it. In times of danger we shall not have ships and seamen to form this force, unless in times of peace we encourage ship building and navigation. Beside this convincing argument arising from necessity of our situation, there is another consideration which ought to have great weight, it is this, the profits of our carrying trade at present are wholly possessed by foreigners, our fellow-citizens have a claim on our jus-

* Printed for private circulation in 1872.

tice and affection for such regulations as will afford them an opportunity to participate in these emoluments, emoluments which would be employed in improving our own, instead of foreign countries. But the various interests, real or imaginary, of the different States and the jealousy existing on this head, render caution extremely necessary. Encouragements confined within proper bounds in favor of American bottoms, will not be objected to anywhere. Excessive restrictions on foreign bottoms ought to be avoided and I think will not be attempted.

The returns for members to represent this State in the House of Representatives, have been examined in the course of last week, and four uniform friends to the Government out of six have been elected. Strange that the sense of the people of this State should also be contrary to that of the Legislature. Whom have you sent to our Assembly from Loudoun, and what is the general complexion of the Legislature?

Inform Col. Pickett when you may see him that I rely very much upon you to communicate to him everything relative to our transactions here, which may be worth his notice tho' I mean not to acquit myself of my promise to write to him now and then.

I have not had a letter from any of my friends in Virginia since I arrived here. Make my respects to Mrs. Powell and your sons. I am

Your Most Obdt. Servt.

RICHARD BLAND LEE.

To Col. Powell, Loudoun.

RICHARD BLAND LEE TO LEVEN POWELL.*

N. YORK, April 30th. 1789

Dear Sir,—

I received yesterday your letter from Middleburg. We have at present a full house, Gen. Washington takes his oath of office in

* Printed for private circulation in 1872.

the presence of both houses, who afterwards will accompany him to Divine Service to implore the blessing of Heaven on our Government.

The enclosed report will show you what are our ideas with regard to an Impost. That part of it which relates to duties only has been amended and adopted and a Bill ordered in, in conformity thereto. The part relating to Tonnage will be considered tomorrow, and if any alteration is made in it, it will be to lessen the duty on vessels belonging to subjects of powers not in alliance with us.

I doubt whether any alteration will take place.

We have not had time to take up the subject of amendments, there is little danger of these being extended further than prudence or propriety require.

With regard to the permanent seat of Congress, that question has been prudently waived at present, it being of such a nature as to rouse into action local prejudices and predelections. I flatter myself that it will be delayed till the close of our first session. I confess that I feel great apprehensions that an improper decision will take place on this occasion, tho' much may be expected from the liberality which has hitherto been displayed by the members, particularly from the Eastward. We must act with caution and play our cards with skill. It might perhaps have been of some consequence to have sent gentlemen to the next Assembly who were decided in favor of the new government, it might therefore have been well if it had suited Col. Peyton and Col. Clapham to have engaged in the business. However, you have sent two respectable characters, who, tho' they have hitherto differed from us in opinion, I am sure agree in the main point, and will feel every motive to promote the public welfare. I think it may be expected that nothing violent and inflammatory will meet with their countenance. Be pleased to make my respects to them and to my very kind friends Col. Peyton and Col. Clapham, from all of whom I shall be happy to hear, tho' I have not time to write to more than one person at a time in a county. You will therefore be kind

enough to make known to them the news and apologies for me. What will be the complexion of the next Assembly?

Remember me respectfully to my friends at Middleburg and believe me to be

Yr Very Humble Svt.

RICHARD BLAND LEE.

RICHARD BLAND LEE TO COL. LEVEN POWELL.

N. YORK June 12, 1789

Dear Sir,—

We are yet engaged in our custom house system and have little prospect of bringing this difficult business to an end before the first of July. The Senate sent to us to-day, the Import Bill with several amendments—the principal of which have the effect to remove the discrimination in favor of French brandies—and to lower the duties on Rum and Molasses—in the following manner—on distilled spirits of Jamaica proof to 10 cents, on other Spirits to 8 cents and on molasses to $2\frac{1}{2}$ cents per gallon—abolishing the draw-back allowed on the exportation of American rum on account of the duty on molasses. The other amendments will not have a material effect on the productiveness of the import—but it is very doubtful whether any of them will be agreed to by our house. In the present state of our deliberations I can not tell when the General import will begin to operate—not till some time in August.

The enclosed paper will shew you the amendments which M^r Madison has submitted to the consideration of our house. A very desultory conversation took place on this occasion. Some objected to recommending any amendments till convenience should demonstrate the necessity of them—others confident the investigation of this subject premature and that it ought to be delayed for some months till the weighty business before us should be dispatched. However I believe the amendments which M^r Madison proposed will be finally recommended to the Legislatures of the respective

states—provided attempts should not be made to introduce others which would destroy the efficacy of the government—in which case the attainment of any might be risked. The further consideration of this subject will be deferred till the important business which presses for immediate decision shall be determined on.

There has been an abundance of rain here and the weather very warm since the commencement of this month.

Make my respects to Col. Peyton, your sons and all my respectable friends in Loudoun.

I am with most sincere regard &
esteem Y^r ob. hum: ser't.

RICHARD BLAND LEE.

P. S.

What seems to be the present public sentiment in Virginia relative to the general as well as our particular interests? You will have heard that Mr. Clinton succeeded in his election by a majority of 400 only. The Legislature elected at the same time are decidedly friendly to the Constitution and are summoned to meet in Albany on the 6th of July when the appointment of Senators to Congress from this state will certainly be made—and men of proper political characters chosen.

We have Bills before us for establishing these departments to aid the President in the execution of his duties—Vzt: a Treasury department—a War department—and a department for foreign affairs. The Senate have before them a Bill for establishing a Judiciary system—I have not seen it. They are however very capable of digesting a proper system. In my next I hope to be able to inform you of some decisive steps having been taken on some of these important objects. An enquiry into the State of the Western lands has been ordered—and some provision will probably be made for the sale of those lands as soon as possible. If I can be of any use to you here be pleased to command me—and let me hear from you whenever your desire & convenience will permit you to to write.

LEVEN POWELL TO MR. BURR POWELL.

MIDDLEBURG NOV^r 21st 1790.

Dear Burr,—

The second morning after you left us M^r Herbert & his Lady called & took Breakfast. He inform'd me that M^r Conway the Gentleman he recommends you to at New Orleans, married a near Relation of the Governour of that place, that his influence is such & the reception his letter will give you, as promises every advantage you could wish. But against this stands some acco^{ts} circulating here, that the old Governour is recaled and a new one has taken his place, that lately several seizures of American property have been made there. Whether these acco^{ts} are published by speculators who wish to discourage adventures down the Mississippi or whether they are well founded is Quite uncertain. Should your affairs so stand as to enable you to go down the river, it will be well for you to get some information of these matters, if I am able to put up any I shall communicate them. It will also be necessary to get other letters besides the one to M^r Conway, for he may be from home, his influence lost, or he dead.

I have since you left this, purchased Rawleigh Chinn's part of the land 243 Acres at 20 £. to be paid with a bond from Isaac Hite and Abram Hite payable the 1st of November 1792 with interest from February the 25th 1791. But lest a difficulty should be found in getting their bond, I have obliged him to take any other good bond p'ble in the same manner by some person residing in that Country, thus if the M^r Hites deceive you, you will probably be able to sell some lands. & get a bond by that means. I am no further accountable to Chinn than in getting such a bond. Charles has also been offering his part which is the last, and I may perhaps buy from him.

The Sale of Negros was made yesterday, you will see a list and their prices, they sold full as well as I expected except Scipio who was worth more. I could not attend the sale, having been confined to my room since Tuesday last with what is still called the enflu-

enza. I never knew it rage with so much violence as it has been in these parts and indeed as far round as I can hear for these 10 or 12 days; it has been worse with Miss Nancy and myself then the rest of the family. I ventured out a little this morning for the first time, but am still very unwell. I have not heard of any ones dying with it but Geo. Nicholson who was taken off in about 7 days.

We have furnished Mr John Pickett with some goods, he will have a balance unpaid of between 40 or £50, he says he will try to remit by you, should he do so he will know the exact sum which I have not present with me. Our Sales are greatly Slower than usual, many of the distant customers have not been at the Store, whether they get their supplys in the little Stores about every where, or whether they do not buy at all I cant tell. Collections are equally bad; we have got but little wheat which is now selling at 5/6 (5s. 6d.) and may rise a little, less money and as yet not one hh^d of Tobacco. for this article there seems to be no price fix'd nor any person yet in the Markett. The Shippers talk of 2 Dollars. We remain in the same doubtful state with respect to the War between England & Spain. The publick papers favor the Idea of War; my opinion stands as Usual that it will blow over. I very much expected a letter from you before you left the Monongahalia which I am disappointed in, nor have we heard any thing of you since you passed Isaac Gibsons. I shall be glad you'd miss no oppt^y that offers for your Writing.

Yr^s affectionately

LEVEN POWELL.

MEMORANDA OF NEGRO SALE.

Negro. Peter	.. 6	year..	£40. 5s.	W. H. Powell.
Scipio	.12	"	.. 46. 5s.	Ch ^s Metcalfe.
Sibb	... 6	"	.. 30. os.	with her Child. Eli Metcalfe.
Geo.	...31	"	.. 41. 5s.	Sam'l Dews.
Phebe	....	do.	....29. os.	Abel Morgan.
—	... do.	....	29. 5s.	Jacob Pearce.
Gabriel	... do.	....	27. 5s.	Eli Metcalfe.
Olivia	....	do.	....22. os.	D. Cridor.

The others I kept myself.

Smith Petre to redeem himself at £150.

Cuthb^{rt},£102. 10s. Mr. M^cfarland.

LEVEN POWELL TO MAJOR BURR POWELL.

MIDDLEBURG Jan^{ry} 30th 1791.

Dear Burr,—

Under the same cover with this you will find a Copy of a letter which I wrote in November & Sent by John Pickett under cover to Col^o Greenup. I send this lest the other might miscarry as it contains some matters necessary to be attended to. Since then I have rec'd two letters from you, one by M^r Johnston, the other by M^r Belle. As the M^r Hites have made such great preparations for defence I am fearful you will find them disposed to be very troublesome & if they should be so disposed, they certainly have it much in their power to be so, the distance between us being so great. It will therefore be proper to act with a great deal of cautious prudence, observing the old adage, that when our hand is in the lion's mouth, we must get it out as easy as we can. At any rate I hope you will be able to get bonds for the Chinns before you breake with them, if there should be a necessity to breake at all.

I have found an Obligation which I took from Doctor Griffith to convey their proportion of Land, this will be good for $\frac{1}{4}$ of what they have actually secured & therefore in your settlement with them let them hold back so much land & in the settlement of mony let them in like manner hold back $\frac{3}{4}$ parts of the necessary expenses in securing. you will yourself recollect that it lies on them to shew titles obtained for Griffith for as much as you settle for, a particular acco^t of which you will bring in with you. M^r Bullett has given up his land to his son in that Country who will I suppose settle the matter himself with them. About 6 days ago, I settled my Acco^{ts} with M^r Bullett & we have vacated our agreement with respect to lands in that country, the whole therefore is in his hands, and he is to settle with the M^r Hites. I think you took Powers with you from all the others that I engaged for, & if the M^r Hites are obstinate it will be necessary for you, before Witnesses to tender conveyances; let these Witnesses take a Mem^o, or rather sign one, which keep yourself, of all the lands and the peoples names for whom you are ready to

convey or are willing he should slap out of your Contract. But endeavour to get all you can from them first, for it is better to dispute for part than the whole & I have hopes that your having Possession of the title for the land near Mares lick and no conveyance yet made by me for the land on Simpons Creek, the greatest part of which I understand they have sold will be a means of bringing them to justice. Before this I expect you have their proposals & objections which will enable you to Judge what is best to do, where you are at a loss, take advice & observe that in all kind of business and more particularly in this, Coolness & caution is indispensibly Necessary. I will give you another adage, more flies are caught with a Spoonful of Honey than a Gallon of Vinigar. Upon the whole it may be better to Sacrifice something than contend with them at such a distance.

Our Assembly at their last Session Repeal'd the Law imposing a tax on Deeds & for fear it might not have got to that Country I enclose you a paper in which it is publish'd, this is a favourable circumstance if the Hites should convey the land, and indeed this seems to be the most lucky time that could be fix'd on for the purpose—for by the last acco^{ts} from Phil^a it is more than probable that Kentuckey is by this time a Separate State and taken into the Union, and I expect their first Assembly will lay a tax on conveyances, what deeds therefore you can get recorded before that event happens will be clear of tax.

Such acco^{ts} as I have been able to gather respecting the Spanish Trade are unfavourable to your plan of a Trip down the Mississippi, I would therefore advise your not attempting it except it should be to get something tolerably clever that cannot be got any other way. Circumstances too has made it necessary to dissolve our partnership, on which acco^t it may be proper for you to return sooner than you could do if you went round. Until then I mean to carry on the business as Usual.

I have had repeated Duns for this money due by your Uncle Mr Cuthbert Harrison and I have been obliged to promise a part of it in March, You know our circumstances will not admit of

advances without injury to our own Creditors, who on acco^t of by far the Worst Collections ever made, have now some pressing demands upon us. Surely that Gentleman never will keep property in his own hands & leave me to pay his debts.

Tobacco is so low, ab^t 12/6, that the planters have carried but little to Markett. The Farmers have kept back their wheat for the last years price, 'till it has fallen from 5/9 to 5/4 & will be lower. Our collections in that has not exceeded 1000 bushels, what was down in the fall I sold for 6p. the rest 5/10½. My indisposition I suppose shortened this Collection, I was not able to venture from home & seldom out of the House 'till the Middle of this month. I have Just return'd from below, & think better for the Trip, a great number of people have died here, among your Acquaintances, Cap^t Carr, old John Tyler, Jonathan Davis, Mist^s Love. Mist^s Landon Carter & many others.

Mr. Hites claim for the difference in value of the location removed is very extraordinary; he knows very well that he took the locations as they were, indeed the most of them were made by himself & you will find by our first contract, that he bound himself to so call the warrants upon vacant land of the first Quality then vacant.

I am persuaded the man who set up a claim to the Lot in Town must be wrong. I was very particular in enquiring into the title of the man from whom I purchased & the Trustees have convey'd it to me, it will be necessary to enquire into his title & if he yet has Possession to bring a Suit against him except you are Satisfied as to his right.

I have not been able to satisfie myself yet with respect to my right of Locating my Warrants on the N^o side of the Ohio. I must therefore leave it with M^r Massey to do the best he can. When it is secure I will convey his part & do what is further necessary for me to do.

It certainly will be the Policy of the New Government to tax Land & therefore some should be got from the Hites that will rent out, & some person appointed there to get tenants & see to

the payment of Tax's. Jinkin Phillips who takes this out is perhaps as good a person as could be had, he promises to do it & I am to do other business for him here, if therefore you should get any land to take care of & made no other engagement, I think it will be best to leave a power with him. If you cannot get Mr. C. Hamsons [illegible] bond to me in time for an Ex^o to reach you before your return, nor get payment from him, it will be necessary for you to bring the bond in with you, But here again I am at a loss & it may be proper to enquire whether an Ex^o can go to that County after the New Government takes place or at what period by the Act of Congress which will be there before you leave the country this will happen. If the Ex^o cannot get there in time I suppose a new Suit must be brought & the sooner that is done the better, except your Uncle Geo. will engage upon his honour to pay the money in any given short time. Another circumstance is necessary to attend to, after the Separation is complete and the New Government takes place. You cannot bring slaves from thence to this State, they would by our Laws be intitled to Freedom.

We have Just rec'd Acco^{ts} that the mouth of the Eastern branch is the place fix'd on for the Federal Seat & that Alexandria is taken into the 10 Mile Square. This circumstance which is greatly pleasing to the people of Alex^a will soon have a considerable influence on the value of property here.

You leave us uneasy about your state of Health as from your letter to Billy you were attacked by a spitting of blood without saying whether it had left you. a great many here has been attacked in the same manner. you ought to have been blooded immediately. Should anything of the kind continue, you should be cautious of taking Cold, use a good deal of Moderate exercise, live very temperate (a milk diet is very proper) and avoid Spirits. I am fearful too of the Indians, since the beating they gave our people it is probable they will infest the country you are in, therefore caution will be necessary & when you return home I would advise your getting with a large Company. I am

D^r Burr

Y^{rs} affectionately

LEVEN POWELL.

Mr John Picketts balance is £42. 8s 1d.

CHARLES LEE TO COL. LEVEN POWELL.

PHILADELPHIA 6th June 1798

Dear Sir,—

Your favor of the 1st instant has been just received and I am pleased to find you mean to offer your service to the district as their representative in Congress. As to the choice of the people I do not doubt your success because they must at length, see that he ought not to be a person, who has invariably been in opposition to the measures of our government, but a person who can be relied upon to support the honor and essential rights of our country against all the world & especially against France whose *principles & measures* are in my opinion incompatible with rational liberty and every species of social happiness. I take it kind in you to mention the little slander that is in circulation respecting me, and surely I ought to congratulate myself in finding nothing worse has been falsely fabricated to injure my good name. I am unwilling to believe Miss Dade can have been the author of such a story. The facts are trully these. I did not receive Miss Dade's money until the month of *March*—& before I did receive it I had a great deal of trouble in visiting the officers at least more than six different times. a very few days after I received it I sent to her my bill for the whole amount deducting the postage of her packet inclosing the the powers of attorney which was nearly a dollar: for you must know that all my letters are charged with Postage, and the privilege of franking has *been denied to my letters* even during the present session *by the Senate* rejecting a bill that had passed the other house for this purpose. My bill was drawn on Samuel Lamkin my agent who at the time ought to have had the funds for paying it, and was most positively ordered to pay it and whose letters inform me that it has been paid. a part appears to have been delayed (about 64 dollars) till the last of april or beginning of may: & for this delay M^r Lamkin has been long ago most peremptorily reprimanded by me.

I must add that some informal powers of attorney were sent to me early in the winter to draw this money and though I personally applied and endeavoured to remove the objections I did not succeed.

I wrote to Alexandria that no use could be made of them, and they remained with me, a considerable time for a private hand to carry back in order to save the postage to Miss Dade. In the spring and not before I received sufficient powers of attorney which enabled me to receive her money in March, as before I have stated. You are at liberty to make what use you please of this letter. I have on sundry occasions taken trouble for Miss Hetty Dade as well as her sister, and I have done it without ever supposing it possible, I should have been requited in this manner. However, conscious of my perfect propriety of conduct in this particular, I shall feel no uneasiness about the matter: on the real state of the case, I am sure every person will have the same opinion on it.

Relative to our envoys, upon a view of all circumstances known here either officially or otherwise it is my opinion that *they are all* at this day upon the sea returning home without any treaty being made and probably without the reception of *them*. money from America in some form or other, is a *sine quâ non* preliminary to a treaty; and this is out of the power of the envoys to agree to.

I am sincerely your friend

and obe^d servant.

CHARLES LEE.

*Col. Leven Powell,
in Middleburg Virginia.*

LEVEN POWELL TO MAJ. BURR POWELL.

PHIL^a Dec^{br} 11th 1799.

Dear Burr,—

As yet this place has Afforded so little to write about that I have written but very few letters. The Presidents Speech you must have

seen in the papers & yesterday we Agreed to the Answer Reported without an Amendment & without much being said. There were members on both sides that disliked that part of it which spoke of the Mission to France.

This was a Measure not Relished by some of the Friends to Govmt. and their wish was to say nothing about it. The leaders in the Opposition on the Contrary were highly pleased with it & was desirous that an Approbation should be expressed in Stronger terms, but the Misfortune was that in doing this they might encrease the popularity of the President & therefore the thing was suffered to pass over as it was.

With respect to my own Opinion on this Subject I have no doubt but the envoys ought to have been sent. The Rulers of France had given the assurances which the President had declared Necessary & professed a great desire to settle the differences between the two Nations. under these circumstances it was his duty to meet the advances which they had made. It is true enough that these people cannot be rely'd on, but when is this objection to be removed? if we are not to Negotiate with them untill they become virtuous I am afraid a perpetual State of Warfare might be expected. It is thought by some that to Negotiate with France will produce a Rupture with Great Britain, If this is true I am ready to Acknowledge that the latter can injure this Country much more than the former & if we must be at War it would be better for us that it was with France, but I cannot be persuaded that this will be the case nor indeed do I feel disposed to ask liberty of one Nation to settle Amicably any differences which we may have with another.

There is still much said in the Newspapers about British depredations on our Commerce and before I made enquiry here I felt great fears that that Nation was disposed to breake with this, but the Result of my enquiry is that only one case of this kind has been laid before the Executive, it is impossible therefore that these complaints can be well founded. The truth I believe is, that these Captures are made on Contraband trade, and when the Merchants are doing the business in their names for French & Spanish Houses and

are Satisfied that Redress could not be had if they were to complain, I suppose notwithstanding the Captures they find enough of their vessels escape to make it worth pursuing.

I still entertain a hope that Moderation & temper will govern the proceedings of this Session. The leaders in the Opposition still seem Sulkey & keep much to themselves, but as there is great temper & Moderation observed towards them it may be a means of cooling them down.

It was not until Yesterday that we got fairly under way in our in our House, after the Address was agreed to, the several matters recommended by the President were taken up & referred to Committees. A Committee is also Appointed to bring in a Bill on the Subject of Bankruptcy, this with the Alteration proposed to be made in the Judiciary System will probably take up a great part of the Ssession which I hope will end in March. Remember me to all.

& am

Yr^s Affectionately

LEVEN POWELL.

Maj. B. Powell.

I wish you to send the letter to M^r Brooks as soon as you can.

LEVEN POWELL TO MAJOR BURR POWELL.

MIDDLEBURG Dec^{br} 14th 1798.

Dear Burr,—

For several days after you left this I continued to mend so Slowly that it was hard to tell the succeeding day whether I was better, but at length a pleasing change took place and I mended so fast that at this time I feel as well as I have done for some years past at this Season of the year and my flesh is pretty well restored. Your family are also well, they were over here Yesterday.

The few outrageous liberty men in these parts or perhaps more properly our *pretended* Patriots, since they have not been able to

find a person who would venture to try his fortune as a Candidate, are very much Consoled with the Idea that your honors will pass a law to Elect the members of Congress by a general ticket, and speake of it as a Measure which is sure to take place. That you may have many among you who would do any thing which might promote their views, I have no doubt. Yet I cannot well bring myself to believe that a Majority will be found in the Virginia Assembly that will agree to a measure evidently intended to favor and encourage party, particularly at this time when it must be known to all that a Base and insolent Nation is Watching for a moment when it may with any prospect of success make a stroke on us.

It is reported here that John Taylor, again a Member from Caroline, obtained leave to bring in a Bill to prevent the operation of the Sedition law on yourselves. I trust this law even if it could have any effect will not be thought Necessary by a Majority of your house for surely you can not have so many among you disposed to Sedition. If however I am Mistaken and if you feel yourselves possessed of a power to pass laws which are to controul other Governments it will certainly be wise in you to introduce a Clause "that the French Government shall no longer plunder the good Citizens of this Country, nor shall they send any Agents here for the purpose of intreague" and they ought to be laid under a very heavy Penalty for a violation of this law, it must be a heavy sum or I doubt they will not mind it, for the Capture of a few Vessels will enable them to pay a Small one.

But to be Serious if it is true that such a Bill has been brought in it really appears to me exceedingly hard that we should be Obligated to pay somewhere about 200 men, two dollars each p^r day to be employ'd in such frivolous & silly business. I call it frivolous & silly because I should suppose it impossible that it could even answer the end he proposes. The people of Virginia must be more willing dupes than I can suppose them to be not to see at once into the Man's Motives and will I think in the end bring him into Contempt. What purpose can he expect that a conduct like this is to

answer but to perplex and divide the people of this Country and thereby place us in such a situation as to become an easy prey to the French Government? does he not know that the laws of a State cannot controul those of the General Government? he does know it and the people must have too much Penetration to be taken in by such a pretext. I wish to hear from you frequently, I am anxious to know the temper of our State Rulers. We lost old Scylla a few days ago. Nothing else worth mentioning Occurs.

Y^{rs} Affectionately

LEVAN POWELL.

LEVEN POWELL TO MAJ. BURR POWELL.

PHIL^a Dec^{br} 25th, 1799.

Dear Burr,—

I think this must be the fourth letter which I have written to you & in one of them enclose one to your Mother and as yet I have not rec^d one in return, I rec^d one yesterday from Billy which is the first time that I heard from home with certainty since I left.

I have just sent over to the Printing office for Yesterday's paper which I meant to enclose to you but none could be had. It contained the Steps taken by Congress on the loss of the great & the good Gen^l Washington, I expect you will find them Republished in the Alexandria paper. Tomorrow is the day that an Oration is to be delivered in honor of his Memory & Gen^l Lee is appointed to deliver it. There were some publications also which went to shew that wheat & Flour are not so plenty in England as we had understood it was, from which I conclude there is no danger of a good price for the present Crop, Flour has sold here as high as \$11½, it fell again to 9, & I do not know that it is higher at this time, but it will Probably be up again. I have drawn my opinion more from Publications than from information from Merchants, for my Attention is so taken up with Public business & with the different Mem-

bers of Congress that I have made no Acquaintance among the Merchants.

The Melancholy event which has taken place, put a Stop to business, so that we shall not fairly begin until the holydays are over. It is a Melancholy consideration that Virginia should pursue with such fury her present Policy, the decided Majority of federal characters in the Senate of this State will prevent her cooperation and I think it very Probable that the Election for Electors here will be by districts or that no law will pass on the subject in which case there will be none in the State. We are told the Senate is determined on this Point, the other house however when they have a Majority of two it is said, is equally determined on the old Plan. The People are Meeting and preparing Petitions on both Sides. McKean's Administration is disgusting to the federalists and equally so to the Moderate & thinking on the other Side. His first Act after the Appointment of Dallas as his Secretary was to remove from Office every man dependent on him in the State who voted against him or was not Active in his interest. His Appointment too, of the Pittsburg Brackenridge as one of the Judges of the Supreme Court has displeased many & among them several of his friends who thought themselves as well entitled to the Appointment. These disorganisers have heretofore hung Wonderfully together, but in this State there are strong hopes that they may Split. It is said McKean cannot find places for all to whom he had made promises & these are wrangling. Whether the man of the people as he is called when he Arrives here may not find means to Reconcile these differences I cannot tell, but be that as it may I am persuaded that Congress will steadily go on with such Measures as may be Supposed the best Calculated to promote the interest & secure the Rights of the people, Regardless of any bug bears which may be set up by way of fright. One Serious danger however Arises from these Circumstances, the French will believe that they have a fix'd and decided strong party in this Country & however they may be mistaken as to the Reality of this they will take their Measures against us consistant with this Opinion & altho' I trust

they will in the end find themselves mistaken yet great distresses may be brought on our Country in consequence of it and if their successes should continue in Europe they may succeed in bringing this Country into their power, for if there is one truth of which I cannot doubt, that we have people in our Country who rather than not Rule at all would Willingly do it with their Aid if it was even Attended with the Surrender of our Independence. At the same time I do not believe there are many of these, but they take their Measures with such Art that great Numbers are deceived.

I am Anxious to hear whether M^r Marshall brought any money from Col^o Bullett & how that matter stands, also how Fortunes Crop of Corn turn'd out as well as his Pork. I have got a paper of to day which I send. I am with my affections to all.

Y^{rs}

LEVEN POWELL.

LEVEN POWELL TO MAJOR BURR POWELL.

PHIL^a March 5th 1800.

Dear Burr,—

I doubt much whether Shearmans Suits will abate in consequence of his Death. Suits in ejectments abates on the Death of Defendants, but I am inclined to think not in the other case, I wish you would consult M^r Harrison on it for I had rather they would go off as I might carry a New one to the District Court.

Doct^r Sims writes me that M^r Noland & M^r Lewis are again Candidates, in this case you will perhaps have a new part to Act for altho it could be wished that M^r Noland might Succeed yet it may be improper for you as a Candidate to interfere in the Election but as far as it concerns yourself.

I am inclined to think that you will not find M^r Lewis so easy Managed as you may expect, he will use great Activity & I am persuaded that the Demo^s will Support him in order to secure to their side his Connexions. I am also of Opinion that their push will treat

you, as an — which they wish to breake down in the County and if I conjecture Right in their Supporting him I think you will find that he will Join them in that business.

I would advise your Acting with great caution and at any Rate with Candour, it is not in my power to advise at this distance you will have to be governed by Circumstances, as they Occur.

I have had a very bad cold which confined me two days to my room, but I am out again & getting pretty well.

We are yet employed with the business of Jonathan Robbins and it was impossible for me to feel otherwise than disgusted at the Conduct of the Gentlemen who Support that business, the object of the thing is so plain that those who Run may Read.

When M^r Livingston brought in his Resolutions containing a Serious charge against the president and with a hypocritical cant affecting to lament that it fell to him to Criminate a man for whom he had so high an esteem, M^r Rutledge moved that they should be referred to a Select committee, because, such a committee might be vested with power to collect testimony and that he could wish to meet the Question with everything that could be brought in Support of it, but M^r Livingston insisted that it should go at once to a committee of the whole & observed that he had sufficient testimony to Substantiate the Charge. In this Committee many ill founded and ill natured Assertions were made calculated for out of door purposes, It was then moved in the House by one of those Gentlemen to discharge the Committee from any further proceedings under a pretence that further testimony was wanting & that it would cause too great a waste of time to procure it, in this he was Supported by Some of them whilst others affected to wish the enquiry to go on. In this no doubt it was expected that the friends to Government in order to save time & from the Contempt with which they view the charge would Join in the Motion, but they were Mistaken, the design was too visible and they have to proceed in the enquiry, & I will not have to say they were Stopped by the friends to Government.

This disappointment has increased their violence and we have had Repeated Calls for papers from different parts of America and if

they had been gratified I have little doubt but they would have required the proceedings of the Court Martial in Jamaica before the thing had ended. The fact is that it is impossible from the Nature of the Case that any thing more could appear as respects the president than what we have before us. It is a painful Consideration that men chosen out by the people for their Virtue, Wisdom & Patriotism should far Mistake their duty as to exhaust so much of the Session in such a Pitiful business, and so ridiculous does it make us that already has it produced a Cry out of doors that we are canvassing for the Election of Mr Jefferson at the expense of \$1000 per day to our Constituents, the fact is that all their Movements seems to tend to this Point and to Create a belief that the president has done something Amiss is one of the means. What they mean should follow the event of his Election is in Conjecture only, but when we take into view a Number of Circumstances I think we may fear the Worst.

We have nothing New from Europe, but from the last Acc^{ts} I am Affraid Peace is not at hand as great preparations are going on for another Campaign. It may very probably Suit the French Government to treat with us & indeed promise anything we may Ask, particularly as they can breake the Treaty whenever it Suits them and will be enabled more easily to intrigue in this divided Country. Remember me to all and Particularly your Mother. I cannot write her by this Post.

Y^{rs} Affect^{ly}

LEVEN POWELL.

B. GRYMES TO GENERAL HENRY LEE.

EAGLES NEAST March 17th 1800

My Dear Sir,—

I have just Received your favor of the 24 February and as there is but little time before the Rise of Congress I have directed the Vouchers to be sent forward to you immediately, and hope they

will get to hand in time. Commodore Nicholson, I do not know where to direct to him but have enclosed a letter to him under cover to Benjamin Stoddert Esq. I have written to Gen^l Hamilton who I am persuaded will act, a most friendly part as, he has always done. I have written to Major Ross of our Regiment to inform you of the thanks I Received of General Scott when the Brigade was paraded for my [prowess (?)] at Germantown. I have also written to General Jones of Petersburg to prove my services in Dunmore's day (when at school.) I must once more beg your ——— attention to this Business. and had I not been fully impressed with the justice of my claim, I should have Solicited the aid of my friends and acquaintances in Congress, but, I am Satisfied that on a fair Statement there can be no objection to my claim for I entered the Service from the purest motives and continued in it till I heard the Enemy had embarked at New York and did not resign untill, I first obtained the consent of our immortal Washington. I was then married and went out to serve the Campaign, at least, had the war continued to the North as I was then in the Guards. Be pleased to show this to my old Friend Col. Powell who will do every thing in his power that is proper I am well satisfied, so will Marshall, Nicholas, J. Parker and in short every good man.

I am Dear Sir your most Hble

B. GRYMES.

LEVEN POWELL TO MAJOR BURR POWELL.

PHIL^a March 26th 1800

Dear Burr,—

The enclosed paper shows the beginning of the debates on the Main Question respecting Robbins, with M^r Livingstons Speech. you had better take care of it until you get the Residue as you may see the whole in one view, and you will consider them for Col^o Lane as well as yourself as I cannot conveniently send to

both, they will also serve others, when you get to Marshalls it will be worth a perusal. Much was said on the Subject before, but the debate came out so irregular that I could not conveniently get them. what gave rise to these was an attempt made by the gentlemen who brought forward the charge to get clear of it without proceeding in the enquiry in such a manner as to impress on the public mind that the president had done something wrong in the matter, when they failed in this they endeavoured to effect the same thing in a different way, by calling for papers that could not be got during the Session and such if got could not apply in the case.

We are now engaged in an Amendment of the Judiciary System, whether it may be effected or not I cannot say, but it greatly alarms the opposition. If the State of Virginia will carry on hostilities with the Gen^l Government, it must endeavour to take care of itself. Already has she forbid any person holding an Office under the State to execute any under the Gen^l Government, & she may lay the same restrictions on her Courts. At present it is not intended greatly to increase the number of Federal Courts, three in Virg^a & in the same proportion throughout, but if this hostile Spirit in the States should increase, the federal Judicial System must increase with it.

The Senate has had Duane before them for publishing false scandalous & seditious falsehoods with respect to them; his insolence was to be sure intolerable. Report says this evening that he has fled, whether it is the case or not I cannot tell, but I believe they will obtain a victory over him, for notwithstanding all his whining that he was about to fall a victim for his Steady Support of Liberty, and Republicanism, he finds but few here disposed to support him and indeed all here, even the Moderate Demos reprobate his insolent Conduct. I have had no letter from you since February, Remember me to all & am

Y^{rs} Affect'y

LEVEN POWELL.

LEVEN POWELL TO MAJOR BURR POWELL.

WASHINGTON Dec^{br} 23^d 1800.

Dear Burr,—

I had not time to write you by Jones. You must pay off these debts of Levens in the manner you mentioned & charge the money on my books. My Beef did not weigh near what I expected, not Quite 700^{lb}. but it has given me an high Reputation as a Graizier, all agree & I believe with truth that it was the finest beef brought into this market, I shall get more for my Next.

The French Treaty is yet before the Senate and I believe they do not know what is best to do with it. The Stipulation that the National Armed Ships taken by either party shall be restored altho it has the Appearance of being Reciprocal is certainly degrading to this Country. We alone are to restore, for they took none of that discription from us & and we are not to have a Single Merchant vessel in return, besides it gives an Appearance that we were the Aggressors and this is the Use which our pure Republicans will make of it. There are other parts Justly complained of. They certainly have been an over match for our Envoys, but I believe they are so for all the World in Negociation & intrigue.

Report says and I am inclined to think truly that the Marquis Lafayette is com'g over here as a Minister from that Government—after Marrying his daughter to Joseph Bonnaparte, if therefore Jefferson should be our President I think we shall have hard work to keep out of the Paws of the French. The Marquis has popularity in this Country which with French intrigue & poor Jeffersons Predilection for them will run us hard. It is however yet uncertain as to who will be the President, it is believed that the two gentlemen will come out even in which case to Judge from present appearances the chance is in favor of Burr. All Burrs Acquaintances say his talents are better fitted to the Station than Jeffersons, they agree he is a man of a bad Moral Character but that it is full as good as the others. No correct opinion however can be formed as to the event.

Y^{rs} Affect^{ly}

LEVEN POWELL.

R. HOOE TO COL. LEVEN POWELL.

ALEX^a Decem^r. 23^d, 1800

Dear Sir,—

Y^r Polite and Friendly Letter of the 19th demands my best acknowledgments. For y^r information therein respecting the Treaty, so far as it had come to y^r knowledge, be pleased to receive my thanks. I am now worse Puzzled with respect to a President, than I have ever been during the whole intemperate News Paper Work, with Respect to Majr^s Adams, Jefferson, Pinckney & Burr: it is true the thing is more Simplified & reduced to a single Question, which will you have, Jefferson or Burr; Yet I do not in my Mind, if I had the Casting Vote, know what I should do on the Subject. If M^r Jefferson is determined to follow, keep up, and Adopt French Politics—If he becomes President, Civil War & Ruin, will certainly, & shortly too, ensue. If M^r Burr gets exalted to this Great Place in Question—I fear from what I hear, of his hot & intemperate Character, he will involve us with both the *King of France*, & France's dependencies, & the Emperor of the British Isles, and his Dominion to the North, the South & East of us. Then we that are now living must never expect Peace in our days. And must die with the Pangs, and unpleasant feelings, of having left an everlasting bloody War, Strapt round the necks of your Childrens Children; You that have them—And at large, our Posterity to the latest day. After all, I hope and Pray for the best; and that Man that will not care for, or Court, either French, or British Policy, but steadily keep up *the American Standard*, should be the Choice, if I had a Vote on the Present occasion.

At Present we will say no more about M^r Secretary of the Navy, and I shall finish my Letter with saying that I believe after all, he or his Agents know but little about building Ships.

I am, D^r Sir,

Y^r very hble Serv^t

R. HOOE.

LEVEN POWELL TO MAJOR BURR POWELL.

WASHINGTON Jan^{ry} 19th 1801.

Dear Burr,—

I have written you by the two last Posts requesting that you would send down the other Beef, but its not having come induces me to believe that my letters have either Miscarried or delayed in some of the Post Offices which I am Affraid are under bad regulations. I wish it sent as soon as this gets to hand, the other was well butchered & no doubt the same hands will do this as well. Jones can bring it with a team made up by ourselves. I have lately been much Puzzled as to which of the two Candidates for the Presidency would best promote the public good. At first I felt no difficulty in making up my Opinion in favor of M^r Jefferson & among other reasons in forming this Opinion was the private Character of M^r Burr which had been stated to me in such terms as to induce a belief that that his appointment would be disgraceful to this Country.

Since the Canvass has come on the Characters of both these gentlemen have been well scrutinized and after hearing all that has been said for and against both M^r Burr stands less exceptionable in that respect than he did at first with me & perhaps in point of Moral principles they are as equal as they Stand even in Votes.

With respect to M^r Burrs Political principles there are several circumstances mentioned in his favor. One, that he possesses no foreign feelings. On the Question of the British treaty he gave evident proofs that he had none in favor of that nation & M^r Jay having Appointed him one of the Commissioners to put the State of N. York in a position of defence when an Attack was feared from France Shows that he had none for that nation. It is believed too that his Policy would be very different from that of M^r Jeffersons respecting our little Navy, that if the latter gentleman does give a tone to the Politics of the Opposition here as many believe there is reason to fear, no traces of that institution

would be left, but the visionary Scheme tried of placing the whole of our Carrying trade into the hands of foreigners, a Measure which in my Opinion would be equally fatal to the Agricultural & Commercial interests of this Country. But notwithstanding these Circumstances I have fears of M^r Burr as well as of the other & feeling myself in this Situation I have written to my friends throughout the district in order to get the Opinions of as many as I can on the Subject which shall govern my Vote. It is true that it will count nothing either way, but yet I think there is some responsibility Attached to it & I could wish to give such a one as would be proper if it was to decide the Election. I cannot say what will be done with the French treaty but I think it will be Adopted with some Modifications. We have reason to fear that the War has again broke out in Europe with redoubled Violence. Corn is getting to an Amazing Price. I wish you would desire [illegible] to be very Careful of Mine. I wish my Horse well fed, the others will not require high feeding having but little to do. Remember me to All particularly to your Mother. I am

Y^{rs} Affect^{ly}

LEVEN POWELL.

LEVEN POWELL TO BURR POWELL.

WASHINGTON Feb. 2^d 1801.

Dear Burr,—

M^r Joseph Lewis & myself have had a pretty regular Correspondence since I have been here, he began it by an enquiry which made an answer necessary & by this means it became regular. In his last he Mentions the ensuing Election & with an appearance of great friendship mentions to me the contentions of M^r Brent. As I shall be obliged to be a candidate again I could wish more attention paid to him than perhaps I should otherwise do. I think too when advances for a reconciliation are made by the person who we believe to have offended it is highly proper to meet them. I must

also confess that the Sentiments expressed in his different letters he appears to me to be correct in his official duties as well as Attentive, which under the present circumstances of things ought to recommend a greater enemy than has been found in him. I expect he will be a Candidate again & perhaps himself & Col^o Lane will be the only two on the federal Side as I am told with good Authority that M^r Noland declines.

No certain Opinion can be given as to the President. One of M^r Jeffersons letters to a person in Berkley has just been published which contain Sentiments that are thought by some to be Alarming, and I am persuaded will have a tendency to Rivit them more firmly agast him. As to myself I feel distressed at our Situation and I believe there never was a time when the interference of providence was more necessary. I wish to hear from the family & how you go on with the Clover Seed. Remember me to all & particularly your Mother I am

Yr^s affectl^y

LEVEN POWELL.

FRANCIS ADAMS TO LEVEN POWELL.

CENTERVILLE Feb.y 6th 1801.

Dear Sir,—

The letter you did me the Honour to write me, on the 19th Ult^o, came safe to hand, & am very much Oblidge thereby, you are Polite enough to request my opinion, on the Grand Question, of a choice in our next President. Sir it is with extreme Sorrow and regret, that I am Compelled, even to think of either of the Gentlemen, who stand highest on the list for that Important Office. I believe it never was Intended by any of that Party, to place M^r Burr, in the Presidential chair, he was, only run with M^r Jefferson, with a view of being appointed Vice Pres^t in order to Shut out the other two candidates—my opinion is of no consequence, but I will freely tell you what I think on the Subject. I am told that the People of Loudoun, have no Idea of M^r Burr as pres^t., that in case

you Should Vote for him, that it will Injure your Election, Perhaps it would be as well to Vote for Mr Jefferson, as he Seems to be the Choice of a large Proportion of the people. I have not been in Loudoun Since last Nov^r court, therefore can give but Little account how they Stand Effected there, I have no Doubt, but you Correspond with Gentlemen in that county, by whom you will no Doubt get Proper Information.

I have Shewn your Letter to all our friends that I have met with, and our Joint and express wish is, that you will exercise your own Judgment, on this Important Question, you being better Informed, and a better Judge of these things, and well knowing your Integrity and Abilities, will rest Satisfied with your Vote let it be as it may.

I expect to be over at the City on that day, and will call to See you. If I Should not, will thank you to Drop me a line and let me know, how things are going on.

Most Respectfully

I am D^r Sir Your

Most Ob^t Servant

FRANCIS ADAMS.

Col. Leven Powell.

THOMAS LEE TO COLONEL LEVEN POWELL.

COTON Feby 7th 1801.

My dear Sir,—

I rec^d your fav^r of 21st Ultimo which an Express I am oblig^d to send to Judge Washington gives me an opportunity of answering. I must confess that like your self on the first view of the Subject I shou^d have prefered Mr. Jefferson to Mr. Burr, but upon reflection I have most certainly changed my opinion not only of the fitness of the Persons, but of the propriety of voting for Col. Burr as he is the choice of the Federalists from almost every part of the Continent, and having usually acted with them I wou^d ever Sacrifice my own opinion and adhere to men who were generally acting for the

benefit and Support of the Government, rather than leave them upon a Subject where I differed in opinion from them.

This tho is my private opinion on the Subject, and I beg it may not operate one moment with you, upon the Stage of action there are a thousand Circumstances that ought to operate with you that I know nothing of, and of course I shou'd prefer your Judgement, if other things were equal. I shall probably see you before the Session ends, accept the earnest wishes of this family for your health and happiness, I am

With real regard Yours

THO^s LEE.

CHARLES LITTLE TO COLONEL LEVEN POWELL.

DAUBY Febry 8 1801.

Dear Sir,—

I recei'd yours dated the 23 ultimo but almost too late to make the experiment. I observe what you say Touching the Character of Mr J. & B and was I in your situation I realy Should find difficulty in giving my Vote but thus situated I think every Man of Candour would divest himself of all Prejudice and party Zeal and follow the dictates of his own Conscience unless expressly called upon by his constituents to vote in a particular manner. but this vote that is now to be given is of so General a nature that I doubt much if any Member can be with propriety dictated to by his constituents, if by the Election of Mr J the Evils are to fall on this Country there would be little room for doubt who ought to be the man, persuaded of this every friend to his Country with united voice would proclaim B to be their Choice, but, while things at present are Viewed as [a] contingency that may happen they have not wrought that conviction on the minds of the people and thus is the great diversity of opinion amongst them.

I have endeavoured to know the opinions of several of my neighbours and others and I find them as different as their

[illegible] so much that I cannot risk an opinion upon the case. I rather think they are for J. I find the Mausoleum in every stage is a very unfavorable Production. I was told the minds of the people in Loudoun were hanging unfavorable to your Election but upon further Enquiry I find this not the case. I find Mr Burr's friends are using every exertion and belching out against the expence of Government and indeed saying every thing they can invent to irritate and inflame the minds of the Weak and Credulous. I think your friends in both Town and Country ought to use much greater exertions than they do, they know what crafty men they have to contest with. I wish you health and happiness and hope you will give your Vote with that manly firmness which Characterised you on a former occasion and established you in the affections of your Constituents.

I am with much respect & esteem

Dear Sir your very Hble Serv^t

CHARLES LITTLE.

LEVEN POWELL TO MAJOR BURR POWELL.

WASHINGTON Feb. 14th 1801.

Dear Burr,—

I rec^d the enclosed letter by Yesterdays Post which I enclose you as it informs you of Mr Bulletts wishes. We have been Ballotting since the 11th Ins^t for a President & stand nearly as we began 8 States for T. J. 6 for A. Burr & two divided.

A Situation most to be dreaded in my Opinion w^d be to rise without a Choice & the Course which a few of us have pursued has been with a view to prevent that Situation & I am not without hopes of Success. It is certainly of little consequence as it respects the interests of the U. S. which of the two shall succeed, but it is of the utmost consequence that one of them should & I believe

that will take place in fav^r of M^r J. but of this I cannot say with certainty.

I wish you would Send my Horse down so as to be here the 4th of March. In haste.

Yr^s

LEVEN POWELL.

LEVEN POWELL TO MAJOR BURR POWELL.

WASHINGTON Feb. 16th 1801.

Dear Burr,—

We have been ever since the 11th Inst. endeavouring to make a President which is not yet effected, believing it of no kind of consequences it respected the interest of the U. States which of the Gentlemen were chosen & discovering great danger from Warmth on both sides that a choice might not be made which in all probability would throw this Country into a very unhappy Situation, I did believe the true course would be to take such steps as might ward off that evil— M^r Jeffersons friends believed that he would carry it on the first Ballot, and M^r Burrs was still more certain that if they failed in the first that the latter would Ultimately Succeed. Several of us whose opinions were Similar agreed to Vote for M^r Jefferson on the first Ballot Showing thereby our Acquiescence in the choice if he should be the Man & afterwards to Vote with M^r Burrs friends to give them also a trial, having been previously Assured that a choice should Ultimately be made. These gentlemen I believe are now Satisfied that they cannot bring over to their Side the States they expected & I did believe the thing would be finished to day which however has been put off until Tomorrow, when I think there is no doubt but it will end in favor of M^r Jefferson. The Contest has been hard & obstinate but conducted with much temper & I hope benifits will arise from the opposition as M^r Jeffersons friends have been Obligated to make

great promises as to the course of his Administration, Particularly as it respects our Neutral Situation & the Navy which it is believed he has Authorized them to do. How far these promises can be Relyed on is uncertain but it is well to have them and we are not without hopes that it will learn him a good lesson that the Washingtonian System will be the most prudent for him to follow & if he does this or conducts the Government with propriety there is a great Majority of those who have Voted against him that will be found among his Supporters.

I forgot to say any thing in my last about Clover Seed. I think it is probable that what I may Sew will be in the [illegible]. Fortune had better therefore get out as much in that way as will Serve us all in which case what is clean may be Sold. I wish you would procure as much Plaster as I may want, my corn land wheat & orchard field is all that will want it this year, some will also be wanting for my [illegible]. I wrote you by Col^o Lane for my Horse to be here the 4th of March.

Y^{rs} in haste

LEVEN POWELL.

ROBERT WALN TO COLONEL LEVEN POWELL.

PHILA^a 20 January 1803.

My dear Sir,—

An opportunity offering at the moment I rece'd your letter, I have put on board the Sloop Helena, Capt Hand, for Alexandria two turns of red Clover Seed which I have consigned to Mr. Cuthbert Powell, & by tomorrows mail will send him a bill of Lading for it. Capt Hand will Sail in a day or two if the weather will permit & I have reason to believe you will find the feed to be of the best quality. it cost \$7½ p bushel which with the casks cooperage & postage will amount to \$112 ¹²/₁₀₀ for which you will at your leisure request your Son to remit me.

Be assured my dear Sir it will always give me great pleasure to be serviceable to you here. I know of none so well entitled to command the services of their friends as those who cheerfully render them, and I shou'd indeed be mortified if you declined to command mine.

"Hard [illegible] and hard lying" have I fear been more fortunate to yourself than to your Country. its present state is indeed to be regretted, yet I cannot believe that those who have taken so much pains to obtain power will be permitted to enjoy it long. Shou'd our Country be so fortunate as to continue in peace and prosperity their fall may be delayed for little skill is requisite to conduct the Vessel of the State in good Weather and with a fair wind, but if Tempests arise (and I think the political Horison begins to be clouded) the People will want more experienced Pilots.

That you may long enjoy the delights and amusements which your Farm afford is the sincere wish of your Friend and

Obedient Serv^t

ROBT^l WALN.

Leven Powell Esquire.

LEVEN POWELL TO MAJOR BURR POWELL.

MIDDLEBURG, Jan^{ry} 22^d, 1805.

Dear Burr,—

You must have heard before this reaches you that the Resolution before Congress for a division of the district except the City was Negatived by a large majority. In this case I cannot see what the Assembly can do to the Prejudise of the [illegible] bank. It will be very extraordinary if they shall Legislate on a subject without their Jurisdiction. They can, to be sure, lay a penalty on any person who shall receive or pass their notes, but surely gentlemen who are such great advocates for liberty will suffer others

the liberty of taking them or not taking them as they Please. The bank will do as well as any other bank if they will let it alone and it is of advantage to the agricultural that the mercantile capital should be as large as Possible. We are all well here except a cold which has plagued me for a few days but which seems going off.

The Winter continues uncommonly severe.

Y^{rs} Affect^{ly}

LEVEN POWELL.

JAMES MONROE TO MAJOR BURR POWELL.

OAKHILL Decr 31. 1828

Dear Sir,—

On mature consideration, I have adopted a measure, respecting your claim on the French gov^t, which appeared to me the most advisable, & which I hope you will approve. Mr Pleasanton the auditor for the dept. of State, is versed in all concerns foreign as well as domestic relating to the claims of our citizens, and will of course, be able to ascertain, what the prospect now is, as suggested by the President, of the more favorable disposition in the French gov^t to render justice to our citizens, in regard to their claims. I have transmitted to him, your papers, & authorized him, either to request the good offices of the gov^t, should he on full examination see any prospect of success, or to transmit them, either to our consul Mr Barnett, at Paris, or Mr Beasley, consul at ——— and to request the services of the one selected, as a private agent, with the French gov^t, assuring him that you will make him in the case of success, a full & satisfactory compensation. I have informed Mr. Pleasanton, that as your friend, I take great interest in your success, & pressed him to pay due attention to the subject. He is personally my friend, & will I know, comply with my request. As soon as I hear from him, you shall be informed of the result. I will then return you the pamphlet on agriculture, which I wish to peruse more attentively, than I have yet done.

My health may be considered as restored, tho' I am careful to avoid, as yet, exposure to the cold air by riding on horseback. I hope that yours, & Mr^s Powell's & family's health is good.

With sincere regard yrs

JAMES MONROE.

JAMES MONROE TO MAJOR BURR POWELL.

OAKHILL Jany 8th 1829.

Dear Sir,—

I enclose you an extract from Mr. Pleasanton's letter, which contains his sentiments on your claim on the French gov^t, and of the measure which he thinks it will be best to take, in prosecution of it. You will consider his remarks, & the subject generally, and furnish me, with what he requires, & I will immediately transmit it to him. You may rely on his best efforts, to obtain for you justice as you likewise may on Mr Barnett, for I know them well, & that full confidence may be placed in them. I shall certainly give to it, all the aid in my power.

Very sincerely I am dear Sir yours.

JAMES MONROE.

JAMES MONROE TO MAJOR BURR POWELL.

OAKHILL Jany 15. 1829.

Dear Sir,—

I had the pleasure to receive your letter of the 12th yesterday, with the papers enclosed, which I forwarded to day, by mail to M Stephen Pleasanton in the city, with a request, that if there should be others wanted, that he would apprise me of it, and I would procure them from you & send them to him. Not knowing whether he would accept of any compensation for the service, I have spoken of the provision made in your paper, as intended to enable him, to make a full indemnity to Mr Barnett for the service,

& for all expenses attending it, without prejudging him, from such acceptance if he thinks proper, & to which, as the agency, is altogether private, I see no objection. The compensation is of course contingent and dependent on success.

Very sincerely dear Sir yours.

JAMES MONROE

JAMES MONROE TO MAJOR BURR POWELL.

OAKHILL Jany. 20. 1829.

Dear Sir,—

I received yesterday the enclosed from Mr Pleasanton which I have the pleasure to forward to you. His instructions are so precise, and explicit, that I need add nothing to them. In that circumstance, relating to the compensation to be made Mr Barnett, it may be advisable, for you, to state in general terms, that you will make him such compensation, in case of success, as he may direct. Whether it would be proper to add "reasonable" or not, you will consider and act as you think best. I am satisfied, he would not ask the sum you propose to give him, and in consequence, it may be presumed, that the more confidence you repose in him, the greater will be his zeal in the cause. Return me the [illegible] papers as soon as possible.

With sincere regard yours.

JAMES MONROE.

SOME MONROE LETTERS—COLLECTING FRENCH SPOLIATION CLAIMS.*

JAMES MONROE TO MAJOR BURR POWELL.

OAKHILL Feby. 4. 1829.

Dear Sir,—

I have the pleasure to enclose to you a letter from Mr. Pleasanton in reply to one which I wrote him, when I forwarded to him, the

* These letters are taken from the Leven Powell Papers.

papers which you sent me, respecting your claim on the French gov^t. He will pay great attention to it, & communicate to you this information which he may obtain from Mr Barnett, as soon as he receives it. Mr. Barnett is a friend of mine, & I requested Mr Pleasanton to assure him, of the great interest which I take in your success.

with sincere regard dear Sir yours

JAMES MONROE

JAMES MONROE TO MAJOR BURR POWELL.

OAKHILL Augt 10. 1829

Dear Sir,—

I have just received the enclosed from Mr P——— which communicates the result of your claim on the gov^t of France, and which I must regret, is different from what I think, it ought to have been. I am not aware that any blame is computable to any one. Mr Skipwith may have brought it forward, altho the fact may not have been known, to Mr. Barnoll or Mr La Grange. We well know that he always performed his duty with integrity & diligence. With sincere

regard I am dear Sir yrs

JAMES MONROE

I hope that your visit to the Springs will be attended with all the benefit, you see by it.

THE JOHN P. BRANCH
HISTORICAL PAPERS
OF
RANDOLPH-MACON COLLEGE

PUBLISHED ANNUALLY

BY THE

DEPARTMENT OF HISTORY

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THE JOHN P. BRANCH
HISTORICAL PAPERS,
OF
RANDOLPH-MACON COLLEGE.

JUNE, 1904.

INTRODUCTION.

The following articles and reprints are herewith given to the public in the hope that they may add something to our scant information on the history of Virginia during the first half of the Nineteenth Century. The larger and better part of these Papers is the work of students in the department of history in Randolph-Macon College, and this work serves two ends:

1. To stimulate the younger men of the State to study our history more carefully than has hitherto been the case, and
2. To put on record some definite facts about the lives of little known but important Virginians.

The opinion of Judge Roane in the *Hunter vs. Martin* case and the reprints of the *Enquirer* articles are given to show how, at the close of the War of 1812, the States Rights ideas of 1798-99 were revived in Virginia and how Marshall became the target for the big legal guns in Virginia. This episode forms a sort of prelude to the Missouri controversy. It is hoped that these reprints from rare newspaper files will be of some service to students of American history.

WM. E. DODD.

THE PUBLIC LIFE OF GEORGE C. DROMGOOLE.

BY EDWARD JAMES WOODHOUSE, A. B.

GEORGE C. DROMGOOLE was born near Valentines, Brunswick county, Virginia, about the year 1797. His grandfather, Thomas Dromgoole, came to America before the Revolution from Sligo, Ireland. He travelled in Eastern North Carolina and Virginia as an itinerant minister of the Methodist Episcopal Church, and was a member of the first Methodist Conference in this country, held at Baltimore in 1784. His son, Thomas, also a Methodist minister, settled in Brunswick county, Virginia, and brought up a large family, leaving a competence to his children. George C., his youngest son, received a classical education at the University of North Carolina. He studied law, was admitted to the bar, and practised law in Brunswick. He was elected to the Senate of Virginia in 1823, at the early age of twenty-six, and was re-elected for twelve years in succession. During three of these twelve years he was Chairman of the Senate.¹

Dromgoole was a member of the convention of 1829-30, elected to frame a new Constitution for Virginia. The two great questions of the Convention were suffrage and the basis of representation. In the consideration of these questions Dromgoole naturally favored the views of the aristocratic, conservative East, in opposition to the democratic, liberal West. He voted at different times to strike out the clauses giving the right of suffrage to leaseholders,² and housekeepers and heads of fami-

¹National Encyclopedia of American Biography, Vol. VIII., Pore's Congressional Directory, and Introduction to a volume of Tennessee Stories, by Miss Will Allen Dromgoole.

²Proceedings and Debates of Virginia State Convention of 1829-30, p. 638.

lies.³ Both motions to strike out were lost. Dromgoole favored the resolution to make one dollar the minimum amount of taxes that should qualify a man to vote, but this, too, was defeated.⁴ An amendment to give the right of suffrage to every native of the Commonwealth, then a resident, who had lived for one year in the county, district, city, borough, or election district in which he offered to vote and who had been assessed by and paid taxes to county or State was lost, Dromgoole voting against it.⁵

Dromgoole belonged to the reactionary party in his view of slavery. This party, by securing a basis of representation consisting partly of the slave population, and by discouraging the plan of gradual abolition of slavery, committed Virginia for good and all to stand or fall with the "peculiar institution." Monroe and other influential men favored the gradual abolition of slavery, but the opposition to it was so strong that it was not discussed, except incidentally, in the Convention. The Federal basis was adopted for the House of Delegates and a white basis for the Senate.⁶ Dromgoole voted for this plan. Had Virginia adopted a plan for the gradual abolition of slavery, it is probable that the Upper Southern States would have followed suit. Thus the great struggle might have been averted.

No speeches of Dromgoole's are reported in the published proceedings and debates of the Convention. It is probable that he spoke seldom, if at all, for he was not in the habit of making many or long speeches even later when he was in Congress. John Randolph remarked on the silence of the members from Southside Virginia sometime after the Convention met. He said: "I have looked to Norfolk, I have looked to Southampton, I have looked to Dinwiddie, I have looked to Bruns-

³Same, p. 827.

⁴Same, p. 649.

⁵Ibid., p. 652.

⁶Proceedings and Debates, Convention 1829-30, p. 689.

wick, for the display of talent which I knew to exist; but, sir, I have looked in vain."⁷

When South Carolina was agitated over nullification, "many of the Virginia Democracy sympathized with the nullification doctrine, and took sides with South Carolina, and it was largely through the influence of the *Richmond Enquirer* and prominent Democrats like Dromgoole, John G. Mason, Andrew Stevenson, and Philip P. Barbour that Virginia was saved from embracing the South Carolina heresy."⁸ This was in 1832-33, before Dromgoole went to Congress, yet his influence was a factor of no mean importance in the State.

Dromgoole was elected to the House of Representatives of the Twenty-fourth Congress in 1835. He was placed on the Committee on Military and Foreign Affairs, and he must have shown the knowledge of parliamentary law and legislative proceedings acquired during twelve years in the State Senate, for during this session he was made chairman of a select committee to consider an amendment to the Constitution in regard to presidential elections. Nothing came of the report of the committee.⁹

Dromgoole asked unanimous consent to offer a resolution directing the Secretary of the Treasury to communicate to the House full information as to the mode and manner of selecting banks in the States and Territories for the deposit of public money. Henry A. Wise objected and asked unanimous consent to offer a resolution providing for a select committee to get the desired information. Wise said, in the course of his remarks in support of his plan, that he had no idea of calling on rogues for an account of their conduct. Objection was made to Wise's request, and his motion to suspend the rules was lost. The rules were suspended to receive Dromgoole's resolution. When it was considered the next day, Wise offered his plan

⁷Same, p. 312.

⁸Life of Henry A. Wise, by Barton H. Wise, p. 35.

⁹*Congressional Globe* of 1835-36, p. 273.

as an amendment to Dromgoole's plan. Wise said he did not wish to apply to Secretary Woodbury for information, because the Secretary had returned a false answer to the same request the preceding session. He said there were strong suspicions that there had been corruption practiced between the Secretary of the Treasury and R. M. Whitney in the assignment of deposits and that he (Wise) wished to investigate.¹⁰ Some days later the discussion was renewed. Wise spoke of Whitney, the agent of the deposit banks, as having sworn allegiance to Great Britain in 1812, and having been refused as an agent by a former Secretary of the Treasury. Therefore, said Wise, Whitney is not a suitable agent now between the Government and the banks.

Dromgoole in reply said that he did not wish to choke inquiry, but desired not to assume the Secretary guilty without hearing him. Several other members spoke in favor of Wise's amendment, intimating that the Administration was using the control of the public money to put down the national bank, and that Dromgoole wished to prevent inquiry.¹¹ It is probable that Dromgoole was sincere in the reason he gave for his position, for he was as much opposed to the deposit bank system as to the national bank, as we shall see later on. Wise's plan was adopted the next session, and Whitney was brought to trial for contempt of the House, in that he refused to appear as witness before the investigating committee.¹² He was discharged after a few days' proceedings.

Early in this session, in February, 1836, the House authorized the appointment of a select committee to bring in resolutions in regard to the disposition of petitions about the abolition of slavery. Pinckney, of South Carolina, was chairman, and Dromgoole was one of the eight others on the committee. They pre-

¹⁰*Congressional Globe*, 1835-36, pp. 303-305.

¹¹*Globe*, 1835-36, p. 327.

¹²Benton's Abridgment of the Debates of Congress, Vol. XIII., pp. 291-307.

sented two resolutions: First, That Congress possesses no constitutional authority to interfere in any way with the institution of slavery in any State of this Confederacy. Secondly, That Congress ought not to interfere in any way with slavery in the District of Columbia. And, "for the purpose of arresting agitation, and restoring tranquility to the public mind," they recommended that a resolution be adopted, "That all petitions, memorials, resolutions, propositions, or papers relating in any way to the subject of slavery, without either being printed or referred, be laid upon the table, and that no further action whatever be had upon them." These three resolutions were adopted May 26.¹³ At this time John Quincy Adams began his crusade against slavery and in defense of the right of petition. When his name was called in the vote on the last resolution, he arose and said, "I hold the resolution to be a direct violation of the Constitution of the United States, the rules of this House and the rights of my constituents."

Clay introduced a bill during this session for the distribution of the surplus revenue. The Senate passed it, but the House tabled it.¹⁴ However, a bill introduced by Calhoun providing for the deposit with the States all the surplus revenue above five millions, the apportionment to be made according to the number of Representatives in Congress, was passed by the two Houses. The House of Representatives added the amendment that the call-loans were to bear five per cent. interest if the certificates were assigned by the Government.¹⁵ Dromgoole was one of the thirty-eight to vote against this bill in the House.¹⁶ The bill passed in June, 1836, and the President reluctantly signed it.¹⁷

¹³Benton's Thirty Years' View, Vol. I., p. 621, and The Jacksonian Epoch, Chas. H. Peck, p. 274.

¹⁴Peck's Jacksonian Epoch, p. 261.

¹⁵Ibid., p. 264.

¹⁶Benton's Thirty Years' View, p. 657.

¹⁷Woodrow Wilson's Division and Reunion, p. 87, and Schouler's History of the United States, Vol. IV., p. 230.

The slavery question caused a big flurry in the second session of the Twenty-fourth Congress. The gag rule, being declared expired by the Speaker, was renewed. John Quincy Adams resorted to every artifice to get petitions about slavery spread on the journal, and on February 6, 1837, he said he had a petition from twenty-two persons declaring themselves to be slaves. He wished to know whether this paper came within the order of the House to lay all abolition petitions on the table, and whether he should send it to the chair for the Speaker to decide. Objection was made to sending the paper to the Speaker, and the Southern members were in a perfect frenzy over the matter. A stormy discussion was carried on during the 6th, 7th and 9th of February. Resolution after resolution was presented to expel Adams from the House, to try him for contempt of the House, and to censure him. Dromgoole offered a resolution that Adams be censured for "giving color to an idea" that slaves had the right to petition as a substitute for one before the House. Adams ridiculed the odd expression of Dromgoole's amendment, and this broke the spell of the contest. The House failed to pass the resolutions of disapproval on February 9,¹⁸ but two days later passed resolutions to the effect that slaves did not have the right of petition, and that the petition in question could not be received.¹⁹ This occurrence shows how high feeling ran on the slavery question and the proportions it was beginning to assume.

In the first session of the Twenty-fourth Congress Benton had introduced into the Senate a bill to receive only specie in payment for public lands. This was defeated, but Jackson, on July 11, 1836, by Benton's advice, ordered the Secretary of the Treasury to instruct the land offices to receive only gold and silver after August 15,²⁰ in payment for public land,

¹⁸Benton's Abridgment of Debates of Congress, Vol. XIII., pp. 266-290.

¹⁹Ibid., p. 296.

²⁰Schouler's History, Vol. IV., p. 261, and Wilson's Division and Reunion, p. 91.

except from settlers or residents in States where the sales were made, who could buy up to three hundred and twenty acres until December 15, 1836, and pay for it in the usual way.²¹ The Twenty-fourth Congress passed a resolution in the second session rescinding the "specie circular" as it was called, but Jackson neither signed or vetoed the bill, which was handed to him the day before adjournment.²² Dromgoole voted against rescinding the circular,²³ and we shall see later that he was heartily in favor of a specie basis.

The House passed this session, as an amendment to the fortifications bill, an extension of Calhoun's deposit policy, providing that the surplus above five millions after January 1, 1838, should be deposited with the States as call loans. The Senate struck out the deposit amendment, but the House "adhered," and the whole bill was lost.²⁴ Dromgoole voted against the resolution to disagree to the amendment of the Senate striking out the deposit clause.²⁵

Van Buren called an extra session of the Twenty-fifth Congress for the first Monday in September, to consider measures for the relief of the general financial distress. In his message he opposed the national bank, and, also, the use of any banks as depositories for the public money. He advocated the policy of the specie circular, the establishment of an independent treasury and the passage of a bankruptcy law for corporations, banks, and individuals.²⁶

Resolutions were passed by both House and Senate declaring that a national bank was inexpedient.²⁷ Dromgoole voted for the House resolution.²⁸ However, the opposition to the Inde-

²¹Peck's *Jacksonian Epoch*, p. 299.

²²*Ibid.*, p. 302, and Schouler, Vol. IV., p. 265.

²³Benton's *View*, Vol. I., p. 706.

²⁴*Ibid.*, p. 710.

²⁵Benton's *Abridgment*, Vol. XIII., p. 334.

²⁶*Jacksonian Epoch*, p. 359.

²⁷*Ibid.*, p. 369.

²⁸Benton's *Abridgment*, Vol. XIII., p. 507.

pendent Treasury was very strong, and a bill for its establishment was tabled in the House after being passed by the Senate. This bill had been amended by Calhoun to the effect that, by gradual degrees, until January 1, 1841, the revenues of the Government should be paid in gold, silver, or paper, issued under the authority of the United States and expressly permitted by law to be received. We have seen already that Dromgoole had opposed the national bank, the distribution of the surplus, and the rescinding of the specie circular, and we shall see later that he opposed the deposit banks and favored an Independent Treasury, thus supporting all of Van Buren's measures except the passage of a bankruptcy law, to which he was opposed.²⁹

A bill, passed this session to postpone to January 1, 1839, the fourth instalment of the deposit with the States. Dromgoole voted for the postponement, as was natural since he had opposed the deposit bill.³⁰ He voted also for a bill to issue ten million dollars worth of Treasury notes.³¹ The notes to be for not less than fifty dollars, interest bearing, payable one year from date, and transferable only by endorsement.³²

Van Buren recommended the Independent Treasury again in his message to Congress in the regular session, but it failed in the House after passing the Senate without Calhoun's specie amendment. Dromgoole made a speech in favor of the bill on June 20, 1838. In beginning, he used these words: "From careful study and honest conviction, I belong to that political party who insist upon a strict and limited construction of the grants of power enumerated in the Constitution, and who, in my own State, in the early struggle waged between States Rights and Federal encroachment, concurred with the General

²⁹Address of the States' Rights Convention to the People of Virginia, written for the most part by Dromgoole, *Richmond Enquirer*, about March 13, 1843.

³⁰Benton's Abridgment, Vol. XIII., p. 497.

³¹*Ibid.*, p. 520.

³²*Jacksonian Epoch*, p. 364.

Assembly in peremptorily and explicitly declaring that 'it views the powers of the Federal Constitution, as resulting from the compact to which the States are parties, as limited by the plain sense and intention of the instrument constituting that compact; and, that in case of a deliberate, palpable, and dangerous exercise of other powers not granted by the compact, the States who are parties thereto, have the right and are in duty bound to interpose for arresting the progress of the evil, and for maintaining, within their respective limits, the authorities, rights and liberties appertaining to them!'" He characterized the deposit system as violating the provision of the Constitution that all public money shall be kept in a Treasury and that the Treasury shall keep the public money secure and ever ready for appropriations, and shall pay it out for these alone. The deposit scheme, he said, lent the revenue of the Government to State banks, over which the Government had no authority, and which did not keep the Government funds always available for the current expenses. Congress could attempt no revision of the policy of the banks without encroaching on the authority of the States. Thus the system of deposit banks tended to efface the line of partition between the State and Federal governments, and, said Dromgoole, "The obliteration of the line of division of political power between the States and the Federal Government mars the beauty, deranges the design, destroys the harmony, and impairs the strength of our whole political system." By applying the proceeds of revenue to increase banking capital, Congress transferred wealth from one class to another. This, said Dromgoole, was robbery and furnished a stimulus to unjust taxation. The Independent Treasury would hold the public money always at the disposal of the Government, would make possible the keeping of a simple account according to the provision of the Constitution, would remove the stimulus to unjust taxation and the odious discrimination in the assignments, and would diminish the probability of and the oppor-

tunity for corruption. Dromgoole expressed himself in favor of a gold and silver currency as the only kind the Constitution authorized the Federal or the State governments to establish.

Though Dromgoole waived the question as to whether or not the exclusive privileges of banks were in accordance with the genius and principles of Republican government or consistent with the equal rights of citizens. He implied that he thought they were not.³³

On December 18, 1837, Slade of Vermont, presented petitions for the abolition of slavery in the District of Columbia, and moved to refer them to a select committee with instructions to report a bill for that purpose. When the matter was called up on December 20, Slade began a speech against slavery in the abstract and began to discuss slavery in Virginia. Amid much confusion, strenuous objection was made and the House was adjourned. The members from the slaveholding States met in a committee room. Secession was proposed, but was rejected. The gag rule was pushed to the front again and was adopted on the next day.³⁴ Dromgoole voted for the adoption of the gag rule, of course.

Sometime during this session Dromgoole moved that an inquiry be made into the reported printing of the work of Congress by some other than the printer elected by Congress. It was rumored that the printer elected had sublet the contract. Dromgoole called attention to the too lavish expenditure shown by this state of affairs, if true, and censured the general waste of money in the proceedings of Congress, especially by committees clothed with absolute power to call witnesses and take testimony. He seemed opposed, however, to the proposition to take Government patronage from political journals and said it would take strong reasons to make him

³³Dromgoole's Speech on Independent Treasury, Appendix to *Globe*, 1837-38.

³⁴Jacksonian Epoch, p. 374, and Benton's View, Vol. II., Chap. 36.

vote to proscribe any individual, or class of individuals, from carrying on their trade. Perhaps his views were considerably influenced by his relations to Ritchie and the *Enquirer*. He took this occasion to express himself in favor of an Independent Treasury.³⁵

On May 12, of this session, Dromgoole opposed the printing of fifteen hundred extra copies of the Report of the Survey of the Alleghany river, on the ground that it was an attempt to pledge the House to a revival of the system of internal improvements by the Federal Government. As was to be expected, he opposed internal improvements.³⁶ This session of Congress closed July 9.

During the summer of 1838 happened, from a personal view point, the most unfortunate occurrence in Dromgoole's whole life. He was drunk at a ball at the hotel in Lawrenceville. Mr. Daniel Dugger, a very refined and estimable gentleman, was at the supper table with Dromgoole. Mr. Dugger was of humble origin, and his mother in her earlier days, and possibly at this time, was a mid-wife. Dromgoole, without the least provocation, twitted Mr. Dugger about his mother's profession. Mr. Dugger at once "slapped his jaws." The next morning General Dromgoole knew nothing at all of the affair, and was willing to do anything in his power to atone for a thing he would not have done in his sober moments. The matter would probably have been settled had not some over zealous political partisans of Dromgoole insisted that he should fight in order not to lose his political prestige. Dromgoole reluctantly consented, and the duel was fought at a secluded spot on the Roanoke river, on the plantation of Dugger's second, Thomas Goode Tucker. Hiram Haines, the editor of a Democratic paper then published in Petersburg, was General Dromgoole's second. Mr. Dugger was killed. It is said that the

³⁵*Globe*, 1837-38, p. 316.

³⁶Same, p. 368.

Whigs were not entirely free from blame in the matter, and that they encouraged the duel, because it gave them a chance to get rid of a formidable opponent in General Dromgoole, though at the risk of the life of Mr. Dugger, who was a member of the Whig party. The fact that Dromgoole was drunk when he insulted Dugger, and the interference of their political friends partly excuse General Dromgoole, but we must blame him for being under the influence of liquor at the ball and for not insisting upon a reconciliation in spite of his political friends.³⁷

It is a curious fact that, in the Virginia Convention of 1829-30, Dromgoole voted against excluding a person who should fight a duel from places of profit, trust, or emolument in the Government.³⁸ At that time there was a strong sentiment in favor of settling private difficulties by duels. A man was apt to be called by many a coward if he refused a challenge. This fostered the practice of duelling among Congressmen, against which an act was passed at the last session of the Twenty-fifth Congress.

When the Twenty-sixth Congress met, there was a contest as to five of the six seats to which New Jersey was entitled. The Representatives of that State were elected on a general ticket and not by districts. The returns from two districts had not come in within the time set by the State laws, and had been thrown out. This caused the election of five Whigs. The Democrats contested the election and sent five Representatives, too. When the Clerk of the House came to New Jersey, in calling the roll, he refused to call the roll further, and said he could put no motion to the House. After four days of debating John Q. Adams volunteered to put the motion, and he was made Chairman until R. M. T. Hunter, of Virginia, was elected as Speaker. Randolph, of New Jersey,

³⁷I am indebted to Judge F. E. Buford, of Lawrenceville, Virginia, for the facts of the duel, which he had from one present at the ball, and conversant with the whole matter.

³⁸Debates, p. 785.

was sworn and the contest as to the other five seats was referred to the Committee on Elections.³⁹ When it came up, before the reference, Dromgoole made a short speech in favor of investigating the election to find out where the majorities lay. He held that the people of a State were represented in the House, the government being represented by the Senators. Hence, he said, the House should receive those chosen by the real popular vote, and not necessarily those that held credentials from the State officials. He said the Constitution empowered Congress alone to judge the elections of its members, and that no action, or law, of States could nullify this constitutional power. He cited cases in which the House had decided contested elections supporting his view.⁴⁰ This speech John Quincy Adams characterized, rather unjustly, as "elaborate and disjointed."⁴¹

John Q. Adams represents Dromgoole as threatening the Speaker with an appeal from his decision on a point of order should it be in favor of Garland, who was offering an amendment on the election case of New Jersey. Adams says that, after the Speaker suggested to Garland the form in which the amendment would be in order, "Dromgoole, with his brandy-brazened face, consoled himself that on the point of order he had been right."⁴² In the impression of Dromgoole that we get from this, we should take into account Adam's violent opposition to the Southern party, of which Dromgoole was one of the leaders in the House. However, we know that the love of strong drink had a strong hold on Dromgoole. Adams speaks on July 17, 1840, of going into Committee of the Whole, "George C. Dromgoole drunk in the chair," and says that other members had to take Dromgoole's place.⁴³

³⁹*Congressional Globe*, 1839-40, proceedings of first few days.

⁴⁰*Ibid.*, p. 58.

⁴¹*Memoirs of J. O. Adams*, edited by C. F. Adams, Vol. X., p. 166.

⁴²*Ibid.*, p. 234.

⁴³*Ibid.* p. 337.

On January 23, 1840, the bill for an Independent Treasury passed the Senate, and on June 30, the House passed it also, the previous question being used to cut off debates and amendments.⁴⁵ Dromgoole, as we have seen, was strongly in favor of the plan for an Independent Treasury, as well as the specie clause of this bill, which provided that all dealings of the United States should be in gold and silver.⁴⁶ This was the only important legislation accomplished this session. The last session of the Twenty-sixth Congress was passed in merely voting the necessary supplies for the Government.

Dromgoole refused to become a candidate for the Twenty-seventh Congress.⁴⁷ The reason for this action we can safely conjecture to have been furnished by his private affairs. Virginia had cast all of her twenty-three electoral votes for Van Buren, with whose policy Dromgoole was almost entirely in sympathy. It is very probable that Dromgoole would have been elected, and it is not likely that he refused to run because he feared the Whigs would have a majority.

Dromgoole was again called upon to represent his county, this time in the Democratic Convention of Virginia, March 2 and 3, 1843. He was appointed chairman of a committee of twenty-three to draw up an address to the people of Virginia from this Convention. This address Dromgoole and Seddons, of Richmond, wrote, but as published it consisted for the most part of Dromgoole's work, since a part of that written by Seddons was replaced by a substitute of Dromgoole's. Van Buren's friends favored November 4, 1843, as the date for the National Democratic Convention, and voting by States according to the will of the majority in each State. Calhoun's friends wanted the Convention in May, 1844, the voting to be by districts, or per capita. The Convention expressed its preference for November 4, 1843, but agreed to

⁴⁵Jacksonian Epoch, p. 436.

⁴⁶Schouler, Vol., IV., p. 324.

⁴⁷Pore's Congressional Directory, sketch of Dromgoole's life.

abide by the wish of the majority of the States. It was decided that Virginia's delegates should vote en masse, according to the will of the majority of them.

Dromgoole at first wrote in the address to the people his views in reference to the general ticket elections, but this was cut out as too long. Ritchie published it in the *Enquirer* several days afterward, but we shall not discuss it now since Dromgoole expresses the same views in a speech which will be noticed later. Dromgoole was chairman of the committee of five to have the address published.⁴⁸

Calhoun often spoke, in his letters about this time, of his belief and fear that Ritchie and Dromgoole were going to lead Virginia to join New York in favor of protective tariff.⁴⁹ He intimated that Dromgoole dictated to Virginia,⁵⁰ and said the omission of any reference to tariff in Dromgoole's address was ominous.⁵¹ The address of the Convention, to which he probably referred, expressly stated that, though the Democratic party of Virginia favored tariff for revenue on account of existing conditions, it was ultimately in favor of free trade. The address opposed the bankruptcy law, as we have already noted.

The address, as far as national affairs are concerned, is summed up finally in these words: "Fellow citizens, the great question is shall they (the Whigs) succeed from our supineness and want of energy? Or shall we, by the magnitude of the stake, be roused to action, to the highest vigilance, caution, energy, and union, to defeat our opponents, and by defeating them, finally and forever put an end to a National Bank, a funded debt, the protective tariff, the distribution of the revenue from

⁴⁸*Enquirer*, March 4, 7, 9, 11, 1843.

⁴⁹Report American Historical Association, 1899, Vol. II., letters to R. M. T. Hunter, pp. 528, 532, 534, to J. E. Calhoun, and T. G. Clemson, pp. 530, 538.

⁵⁰Letter to T. G. Clemson above.

⁵¹Letter to Hunter, p. 528, above.

the public lands, the assumption of State debts, the creation of a stock of two hundred million dollars, to be charged upon us and our posterity, and secure the permanent ascendancy to the Republican States-Rights Party, with the principles and policy for which they have so long and so nobly contended. Yes! by defeating them we will give victory to our banner, on which are inscribed free trade, low duties, no debt, no national debt, no partial legislation, no assumption, separation from banks, economy, retrenchment, and strict adherence to the Constitution."⁵² This is a good exposition of Dromgoole's position with reference to the great questions then before the people.

The address discussed the election of the President by the House in case of a failure to elect by popular vote, and spoke of this mode of election as one to be tolerated only on the ground of expediency. The people should elect the President whenever it is possible. This was an echo of Dromgoole's advocacy of respect for the will of the people, stated in his speech on the New Jersey election case. A thorough revision of the whole doctrine of corporate rights, a radical reformation in the entire system of the moneyed institutions,⁵³ and the fostering of general education, were the other matters recommended.

Dromgoole was elected to the Twenty-eighth Congress and was put on the Ways and Means committee, one of the two most important committees at this time, that on Foreign Affairs being the other. He had been on the committee on Foreign Affairs in the Twenty-sixth Congress.

Dromgoole reported favorably from the Ways and Means committee a resolution to repeal that part of a previous act

⁵²Address of the States' Rights Convention to the people of Virginia, *Enquirer*, about March 13, 1843.

⁵³Note the correspondence of this with Dromgoole's view on this subject. implied when he waived the question of corporations in his speech for the Independent Treasury.

of Congress that provided for the division among the States of the proceeds from the sale of public lands and to keep this money in the Treasury.⁵⁴ It passed the House, but not the Senate.⁵⁵ A bill for an Independent Treasury reported favorably by Dromgoole from the Ways and Means committee did not pass.

The Representatives from the slave States brought forward the gag rule, and the Northern Democrats helped them to pass it, because, so Adams says, they were afraid to lose the Southern votes for Van Buren should they refuse.⁵⁶

In April, 1844, Tyler submitted to the Senate a treaty for the annexation of Texas. This was a complete surprise, for the negotiations had been kept strictly secret. Tyler had rejected two secret proposals of Texas for annexation before Webster retired from the cabinet. Upshur, when he succeeded Legaré as Secretary of State, carried on, under Tyler's instructions, negotiations for the annexation. Houston, the President of Texas, agreed to the treaty on condition that the United States should pledge itself to fight Mexico in defence of Texas and station its troops and fleets in a position for this purpose while negotiations were pending. Tyler signed the treaty early in April and at the same time ordered troops to be stationed near the border, and a strong naval force to be sent to the Gulf of Mexico.⁵⁷ He sent the treaty to the Senate April 22, 1844.⁵⁸ The whole country was startled. Clay and Van Buren were questioned, and both said they were opposed to any immediate steps for annexation. Van Buren lost the Democratic nomination by his stand on this question. In the Convention in May he had a majority on seven ballots, but it took two-thirds to nominate, according to a rule adopted by the

⁵⁴*Globe*, 1843-44, p. 379.

⁵⁵Journal of House, 1843-44, p. 209.

⁵⁶Adams' Memoirs, Vol. XI., p. 519.

⁵⁷Schouler, Vol. IV., pp. 449-457.

⁵⁸*Ibid.*, p. 459.

Convention. Virginia's delegates voted against him from the first, and his support gradually diminished. James K. Polk was finally selected. The way in which the Southern annexationists, especially the Virginians, fell away from Van Buren showed they were in deadly earnest. They mistrusted Van Buren even though he said he was willing to bow to the will of the people.⁵⁹

The treaty was kept in committee room of the Senate until after the party conventions had met. It was rejected June 8, 1844.⁶⁰ The Democrats declared for "reoccupation" of Oregon, also in the May Convention.

This declaration started a strong sentiment in favor of pressing the Oregon claim. Hughes introduced a resolution into the House to declare that the House thought the United States had a right to the territory between 42 degrees and 54 degrees 40 minutes north latitude, called Oregon, and that the government should take possession. This was amended to include a recommendation for the annexation of Texas. It was tabled by a small majority, Dromgoole voting against tabling.⁶¹

The United States claimed as far as the parallel of latitude 54 degrees 40 minutes north by the Louisiana purchase and by exploration and settlement. English fur traders had settled as far south as 49 degrees north latitude, and the claim of the United States was not strong, or clear enough to justify the cry raised by some hotheaded Democrats, "Fifty-four, forty, or fight." The line was finally fixed at 49 degrees north latitude in 1846.⁶²

The question of election of Representatives to the House on general tickets, rather than by district, was discussed in the next session of Congress. Dromgoole made a speech on December 20, 1844, in favor of declaring valid the elections

⁵⁹Schouler, Vol. IV., p. 467.

⁶⁰Wilson's Division and Reunion, p. 146.

⁶¹Journal of House, 1843-44, p. 662.

⁶²Wilson's Division and Reunion, pp. 147 and 148.

on general tickets in spite of the provision to the contrary in the apportionment act of a previous Congress. He said that Congress had the right to decide as to the constitutionality of an act of a former Congress, because the Constitution gave Congress power over the election of Representatives and Senators. He held this to mean that each Congress had the power to decide whether or not the men sent to it had been elected according to the requirements of the Constitution, and he declared that a former Congress had no power to bind the present one to a certain course.

Dromgoole quoted a provision of the Constitution⁶³ which says that, "The time, place, and manner of holding elections of Senators and Representatives shall be prescribed in behalf of each State by the Legislature thereof, but Congress may at any time, by law, make or alter such regulations, except as to the place of choosing Senators." Dromgoole's view was that this gave Congress merely supervisory power and provided for the contingency that there should be no provision for elections made by the governments of the States. He said that Madison held this view.⁶⁴ But, said Dromgoole, even if Congress had not supervisory, but absolute power over the time, place, and manner of holding Congressional elections, the division of the States into districts or the ordering of this to be done comes not under this head, but under that of apportionment of the quota of members among the people of the State, which the Constitution delegates to the State governments.

He said he was supported in this position by the Constitutional Convention of Virginia held in 1829-30.⁶⁵

On January 8, 1845, Dromgoole presented the resolution for the annexation of Texas. On January 24, he made a speech in favor of this measure. His speech amounts to this: Though the Constitution confers on the President and the Senate the

⁶³Constitution, section 4, article 1, paragraph 1.

⁶⁴Madison Papers, Vol. III., p. 1282.

⁶⁵*Globe*, 1844-45, p. 54.

power of acquiring territory by treaty, the United States is not obliged to acquire territory in order to admit new States. The Constitution of 1787 was to go into effect if nine States ratified it. North Carolina and Rhode Island did not ratify it when the other States did, and they were treated as foreign States. Goods coming from them was taxed just as from any European country. These two States afterward came into the Union. Vermont separated from New York in 1777 without the consent of New York, but New York acknowledged her independence in 1789. Vermont was admitted into the United States in 1791. Why, then, cannot Texas be admitted as a foreign State?⁶⁶ Dromgoole showed the wide range of his reading by referring to and quoting from the Statutes of the United States, New Views of the Constitution, by John Taylor, of Caroline, Slade's Vermont State Papers, the Madison Papers, the Federalist, and the early records of New York.

The bill passed February 28, 1845, and was signed by Tyler on March 3. It adopted the Missouri Compromise Line, 36 degrees 30 minutes north latitude, as the Northern boundary for slavery in the new territory.⁶⁷

During the summer of 1845, Polk ordered General Zachary Taylor to cross the Neuces into the territory claimed by Texas as far as the Rio Grande. Taylor's force of fifteen hundred was increased to nearly four thousand. In December, 1845, Texas was admitted into the Union. Early in 1846 Polk ordered Taylor to advance to the Rio Grande. The Mexican general demanded that he withdraw. Taylor refused and defeated the Mexicans in two battles. Thus began the war for territorial aggrandizement. Polk, in his message in May, 1846, said that war existed by Mexico's own act, and Congress declared war.⁶⁸

In July, 1846, Congress passed an act for lower tariff to take effect December 1. We have seen already the view of tariff

⁶⁶Appendix to *Globe*, 1844-45, p. 300.

⁶⁷Wilson's Division and Reunion, p. 147.

⁶⁸*Ibid.*, pp. 149-151, and Schouler, Vol. IV., pp. 522-523.

that Dromgoole set forth in the Virginia address, and know his position on that subject.

A bill passed Congress (July) for an Independent Treasury, like that of July, 1840.⁶⁹ Dromgoole made a speech in favor of it. He called attention to the violation of the provisions of the Constitution by the deposit system and the conformity of the Independent Treasury plan to these provisions. His other arguments were practically the same as in his other speech on this subject in June, 1838. Dromgoole spoke strongly in favor of Calhoun's amendment that only gold and silver should be received as revenue, and emphasized the fact that the Constitution gives neither Congress nor the States power to make anything but gold and silver legal tender. He pronounced a high tribute on Van Buren's foreseeing patriotism and consummate ability in recommending the Independent Treasury ever since the extra session of 1837. In closing, Dromgoole denounced in the bitterest terms Tyler's administration and implied his belief in the charges against Daniel Webster.⁷⁰ The object of this denunciation was probably to prevent the impression that Dromgoole was in sympathy with Tyler and his coterie of friends, Wise, Gilmer, Beverly, Tucker, and Rives, called by Clay, the "corporal's guard."⁷¹

During this session of 1846-47 independent bills passed in the two branches for three million dollars to settle the boundary dispute with Mexico. The House bill included the Wilmot proviso that slavery should not be admitted to the territory thus acquired. The Senate would not agree to the proviso, and it was dropped in the conference between the two Houses.⁷² Thus Congress supported the war Polk was carrying on. Dromgoole favored the maintenance of the claim of Texas to territory

⁶⁹Schouler, Vol. IV., p. 516.

⁷⁰*Globe*, 1845-46, p. 637.

⁷¹Schouler, Vol. IV., p. 385.

⁷²Wilson's Division and Reunion, p. 156 and Schouler, Vol. IV., p. 544.

as far as the Rio Grande, and sanctioned the President's action in sending troops to defend that territory until a boundary should be established.⁷³

Dromgoole was elected to the Thirtieth Congress against Colonel George W. Bolling, the Whig candidate. An eye witness⁷⁴ of a discussion between the two at Dinwiddie Courthouse relates an incident that shows how Dromgoole's unusual ability would crop out even when he was under the influence of liquor.

Colonel Bolling was on time at the appointed place, but General Dromgoole had not come. After a time he appeared down the road in an old-fashioned gig. He was spattered from head to foot with red clay, which stained his white hair and his clothes. He had fallen in with a wagon camp when he was driving over from his home the day before, and had stopped with the wagoners and gotten drunk that night. Most of the Democrats, crestfallen and disgusted, thought he could not speak in that condition; but, at the instance of some who knew him better, they borrowed a suit of clothes for him. He begged for something to drink, but they gave him none until they were ready to enter the courthouse. Then Dromgoole was given what seemed to be a pint of brandy, or whiskey, which he immediately drank. He then ordered a quart of toddy, three-fourths whiskey and one-fourth water, to be made and placed on the table nearby, where he was to speak.

Colonel Bolling began the discussion. He read many extracts from the "blue book," a summary of the proceedings of Congress, and often inquired "Where was General Dromgoole when the vote was taken on this important measure that so deeply affects your interests?" Everybody knew that Drom-

⁷³*Globe*, 1845-46, p. 242.

⁷⁴Judge F. E. Buford, of Brunswick, who was present, and to whom I am indebted for this incident.

goole had often been absent when votes were taken on important measures. When Bolling had finished, Dromgoole arose, poured out a tumbler of the toddy, drank it, and commenced, "My friends and fellow citizens of Dinwiddie, my able and amiable friend Colonel Bolling, has undertaken to show that I am not worthy to represent you in the Congress of the United States. This is, perhaps, an easy task, and one that may not tax to any appreciable extent the great ability of my friend, but, after he has succeeded in this undertaking, he will find himself confronted by the more difficult, if not impossible task of proving that he, Bolling, is." This formed the prelude to a fine political speech. in which he demolished Bolling's speech.

Dromgoole was very quick at sledge-hammer repartee and took advantage of every slip of his opponent. At another discussion he answered Bolling's question, as to whether the people would rather have in Congress, him, Bolling, who would always be in his place, or General Dromgoole,⁷⁵ who would often be absent, by asking: "Fellow citizens, had you rather have to represent you, me, who will often be absent, but who will support your interest by my speech and vote when I am present, or Colonel Bolling, who will always be present, but who will always speak and vote against you?" This brought a roar of applause, for the Brunswick district was Democratic.⁷⁶

Dromgoole did not live to take his seat in Congress. He died April 27, 1847, after a short illness. The following notice appeared in the *Enquirer* a day or two later.

"DIED IN HARNESS."

"Such was the simultaneous exclamation of two Democrats when news was brought them of the death of General George

⁷⁵Dromgoole belonged to the Brunswick militia, and from this came his title.

⁷⁶I am indebted for this incident to Bishop J. C. Granbery, who heard the debate.

C. Dromgoole, who has just been elected to Congress from the Brunswick district. This painful intelligence, which had been rumored for several days, reached us yesterday in such a form that we are forced to credit it. Not many days since, a friend informs us, General Dromgoole met his political opponent in the county of Amelia and addressed the people with striking power and eloquence. He discussed the great questions of the day with an ability which few can equal. The election came off and resulted in his favor, though from peculiar causes the issue was involved in doubt and was probably not known to General Dromgoole when he breathed his last. His name is proudly associated with the history of the Republican party, not only in Virginia, but in the Union, one of whose ablest, firmest, and most prominent champions he was acknowledged by all to have been. General Dromgoole was a giant in mind, and his honor and character were never impeached. Faults he had like other men, which, in the language of the Pennsylvanian (presumably Buchanan), somewhat 'impaired the usefulness of one of the brightest intellects in the Union,' but his native State will never forget the distinguished services of one who has filled so many high offices in her councils. Peace to his ashes!"

This seems a fair estimate of General Dromgoole. Though dissipated to a degree that would have sunk an ordinary man to the level of a common sot, his extraordinary talents and great intellectual power enabled him to command the votes of his fellow citizens as long as he lived. Upright and honorable, he always worked for what he thought was the best for his country. The Independent Treasury system and the principle of sound money, which he always advocated, are now acknowledged to be conducive to the prosperity of the country. His Southern, and hence, slavery sympathies led him perhaps to go too far in the Texas boundary question and to sanction an unjust war, but he never went to the extreme measures of Calhoun, Rhett, and the other nullifiers. He loved the Union

too well. Dromgoole followed Van Buren and entertained to his death a high admiration for his great chief. However, he never hesitated to act for himself, and he was rather one of the leaders than a follower in the Democratic party.

A politician and an orator of a very high order, Dromgoole was seldom, if ever, surpassed on the stump. He was about the medium height, had a strikingly noble head, and was a very handsome man. His actions were graceful and deliberate, his voice musical and clear. His speeches were always keenly enjoyed, and the people loved to hear him.

An amusing incident, that occurred at a mass meeting, shows how eager the people were to get their favorite to speak. Dromgoole was by chance present at a time that Colonel Bolling was to speak. Colonel Bolling very courteously offered to divide the time with him, but Dromgoole declined, saying the appointment was Bolling's. Colonel Bolling spoke at considerable length, and the people got impatient. They wanted to hear Dromgoole. Bolling reminded them of his offer and Dromgoole's refusal. Finally the cry of "Fire" was raised; everybody rushed out of the courthouse. Bolling sat down. The people came back and called for Dromgoole. It was a ruse to get Bolling to stop.

Dromgoole's life was probably shortened by his unfortunate habits. He was about fifty years old when he died. R. G. Scott, in a letter to Calhoun, dated April 27, 1845, speaking of the forthcoming election of governor, said: "Dromgoole might have been in our way, but his intemperate habits placed him, I think, out of the chance of further elevation. Thus love for drink strangled the genius of an intellect that should have placed Dromgoole on the roll of American statesmen."

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I am especially indebted to Bishop J. C. Granberry and Judge F. E. Buford, of Lawrenceville, Va., for their kind help in relating to me their personal recollections of General Dromgoole.

E. J. W.

BENJAMIN WATKINS LEIGH.*

BY EDWIN JAMES SMITH, A. B.

ABOUT 1750 Fernando Leigh, an emigrant from England, settled in King William county, Virginia. He was a man of some importance, having married Mary Cole, the daughter of Colonel William Cole, a member of the House of Burgesses from that county. Their only son, the Rev. William Leigh, was the father of Benjamin Watkins Leigh. He was educated at William and Mary, and after completing his course for the ministry at Edinburgh, was ordained by the Bishop of London in 1772. He returned to America and was given charge of Dole Parish, Chesterfield county. Here he took an active part in the Revolutionary movement, being one of the ten clergymen who signed a protest against Great Britain's taxation in 1774.

He married Elizabeth Watkins, the daughter of Benjamin Watkins, the first clerk of Chesterfield county, and an ardent supporter of the Revolution. On her mother's side Elizabeth Watkins was the granddaughter of Archibald Cary, one of the most illustrious men of his day and a member of the Constitutional Convention of 1776.¹ The Rev. William Leigh lived with his wife at Dole Glebe, near Petersburg, Virginia, and it was here at "Gravel Hill" that Benjamin Watkins Leigh was born June 18, 1781.

In the year 1787 the father died, leaving Leigh a little boy six years of age. Under the tender care of a loving mother

*Note.—The author desires to thank Miss E. M. Robinson, Mr. Leigh Robinson, of Washington, D. C., Mr. D. T. Pulliam, of Manchester, Va., and Mr. A. B. Williams, of Richmond, Va., for valuable information on the subject of this paper.

¹See Griggsby's Convention of 1776, p. 90.

and the tutelage of his beloved master, Treedler Robinson,² he grew up with that religious tendency and that love and pride of his ancestors which marked his whole career. In after life he often spoke with great respect of his old Scotch tutor, to whose early training he attributed much of his success.

Having finished his private education he entered William and Mary College, when after a course of conscientious work he graduated in 1802.³ It was here that he began a friendship which was to last throughout his life. Though by nature he and Chapman Johnson differed on the political questions of the day, yet, so frank and so generous were their natures that during periods of the most strenuous political opposition each loved and trusted the other.

He was admitted to the bar of Petersburg in 1802, when only twenty-one. His first case was one which appealed to his emotional nature, and the speech he made on this occasion placed him in the front rank of his profession. He practiced law here until 1813, when he removed to Richmond.

His native county sent him to the House of Delegates in 1811, where he stayed for two sessions. Here he served on the committee for Courts of Justice⁴ and was recognized as an authority on all legal questions. He was one of the heartiest supporters of the ancient doctrine of instructing United States Senators, and when John Tyler introduced resolutions censuring Senators Giles and Brent for voting for a recharter of the United States Bank, Leigh proposed an elaborate substitute, prefaced by a preamble justifying the doctrine of instruction. This was accepted in the place of Tyler's.⁵ Later

²See Wise's *Seven Decades*, pp. 31-32.

³See McFarland's address in *Southern Literary Messenger*, Vol. XVII., p. 123.

⁴See *Journal of House of Delegates*, 1811-12.

⁵See Tyler's *Tylers*, Vol. I., p. 274, *et seq.* See *Journal of House of Delegates*, 1811-12, pp. 155-9.

in his life, on failing to obey the instructions of the Legislature, or resign his seat in the Senate, he came into conflict with his own resolutions.

In 1813 he began the practice of law in Richmond, and during the remainder of his life, when not occupied by State duties, he lived there. His great knowledge, coupled with his clear insight, singled him out of all men for his State's most important missions.

The Legislature decided in 1819 to collect and revise the existing laws of the State. Leigh was chosen for the supervision of this most important work, and the Code he gave to the public added materially to his reputation as a profound lawyer, besides fitting him for more exalted positions in his country's service.

His next work of importance was that of a Commissioner to Kentucky. When made a State in 1789, Kentucky agreed that all public lands in her boundaries reserved by Virginia for military rewards should be exempt from her disposal, until 1772. Then all undistributed lands should revert to Kentucky for distribution. In the meantime, the Indians, threatening war, occupied the lands and rendered distribution impossible. By a treaty with them in 1786 the United States gave the land to the Indians, who kept it until 1818. Then Virginia put in her claim. Kentucky pointed to the agreement of 1789 and refused to recognize it.

After some delay Virginia sent Leigh to lay the matter before the Legislature of Kentucky. He appeared before that body in May, 1822, and addressed⁶ them in regard to Virginia's claim. They would not accept his terms, but agreed to appoint a commissioner to confer with him for the settlement of the matter, subject to the approval of the Legislatures. Henry Clay was appointed by Kentucky. He and Leigh met and agreed on a convention, which provided

⁶See Tyler's *Tylers*, Vol. I., pp. 413, *et seq.*

that a Board of Arbiters, four in number, who should not be citizens of either Virginia or Kentucky, should meet in Washington and decide the difficulties.⁷ The Legislature of Kentucky ratified this convention, but Virginia rejected it by a small majority in the Senate, "on account of the tenacity of both Houses in adhering to their disagreeing votes on the amendment to the bill."⁸ Leigh was much mortified "at such a defeat of his best efforts for the public service and at the ridicule and dishonor which Virginia had brought on herself."⁹ This work having been completed, he retired to private life until the meeting of the Constitutional Convention of 1829-30.

In 1828, the opposition to the Constitution, which had been gradually increasing since its adoption in 1776, culminated in a demand for a Constitutional Convention, by a majority of 5,000.¹⁰ The scene of the greatest dissatisfaction was in the Western section or what is now West Virginia. The old Constitution provided for a freehold suffrage qualification and representation on the basis of taxation and numbers combined. The majority of the Western people were small landholders with very few slaves, while the people of the East owned large plantations and great numbers of slaves. Thus many of the Westerners were allowed to vote, and those to whom this privilege was given failed to get equal representation on account of their poverty. The affairs of the State were controlled by the East.

At the call for a Convention, each county seemed to realize the importance of the occasion and sent the best men available, even going out of their own limits in the choice of their representatives. Leigh, although he resided in Richmond at the time, was chosen by the people of his native county, Chester-

⁷See Journal of House of Delegates, 1822-23.

⁸See Nile's Register, 1823.

⁹See Leigh's letter to Clay, February 12, 1823. Colton's Clay, Vol. III., pp. 73-4.

¹⁰See Introduction to the Debates of Convention, 1829-30.

field, to represent them in this body, illumed by the presence of such past masters in the art of legislation as Madison, Monroe, Randolph and Marshall. Here, as the acknowledged leader of the conservative party, he played a very important part.

Mr. Madison was elected President of the Convention by acclamation. Upon the report of the Legislative committee, the first question of importance before the House as a committee of the Whole, was that of the basis of representation. Mr. Green, of Culpeper, amended the report of the committee, which based representation in the House on numbers alone, to read, representation in the House of Delegates shall be based on numbers and taxation combined.¹¹ Leigh and Upshur supported this amendment. Cooke, of Frederick, opposed it.

Leigh, in a long speech, argued that since the people of the East paid three times as much taxes as the Westerners they ought to have more influence, especially in the House of Delegates, where all taxes were levied. "Power and property may be separated for a time, but never divorced."¹² He said that the poorer class of mountaineers, who filled the same place in society as slaves, were represented, while the slaves of the East were not represented at all. He pointed to the governments of our sister States, most of whose constitutions called for a representative basis of numbers and taxation combined. The Federal Constitution had the same basis. The cause supported by his opponents would place the wealth of the people of the East directly in the hands of the illiterate whites of the West. He was willing to have representation in the Senate based on the number of whites, but to make it the basis of representation in the House of Delegates was a "cruel, palpable and crying injustice." The amendment was lost by one vote, cast by the chairman.¹³

Leigh then moved the amendment to base representation

¹¹See Debates of Convention, 1829-30, pp. 53, *et seq.*

¹²See Debates of Convention, 1829-30, p. 151, *et seq.*

¹³See Debates of Convention, p. 321.

on the number of free persons and three-fifths of all slaves. This was also lost by a small majority.¹⁴ After various compromises had been offered and much debating done, this basis was finally adopted, though in a disguised form.

When the much disputed question of suffrage came up, Leigh strove earnestly for a freehold requirement. He spoke for it with much force, using precedent as an argument—an evidence of his extraordinary conservatism.¹⁵ He was defeated¹⁶ in his proposition, but not entirely, since the new Constitution merely widened the scope of suffrage without eliminating entirely the freehold qualification.

Through Leigh's influence a privy council was established to advise the Governor.¹⁷ Again we see his abhorrence of the centralization of power, which is shown more closely while in the Senate in his opposition to Jackson's high-handed measures.

Though from force of numbers and the influx of new ideas, Leigh failed to accomplish his desired ends, yet he was acknowledged the most important figure in the Convention, and especially in the committee room was his logic most pungent, his speech most eloquent and his influence most potent. This was the arena of his greatest activity, and where he showed himself one of the most learned, as well as the most conservative and conscientious men in Virginia. He it was to whom she looked when there was an important mission to be performed, or a great work to be done. When the trouble arose in South Carolina, Leigh was considered the man to represent Virginia in the attitude of a peacemaker.

The whole South was much dissatisfied with the tariff of 1828, and that of 1832 drove South Carolina, perhaps unreasonably, to exasperation. Here the doctrine of nullification was

¹⁴See Debates of Convention, 1829-30, p. 341.

¹⁵See Debates of Convention, 1829-30, p. 393, *et seq.*

¹⁶See Debates of Convention, 1829-30, p. 432.

¹⁷See Debates of Convention, 1829-30, pp. 589, *et seq.*

brought into practice. The people were two to one in favor of it and in November, 1832, a convention was called which adopted an ordinance declaring the acts of 1828 and 1832 null and void and prohibiting the "payment of any duties under them within the State." It determined to maintain the ordinance and threatened to secede if forced to obey the tariff acts.¹⁸ Letters with resolutions were sent to all her sister States asking them to join her and stating her position. They all sympathized with her, but disapproved such hasty action and refused to join her.

Virginia received the communication and on January 26, 1833, B. W. Leigh was unanimously elected Commissioner to South Carolina,¹⁹ bearing resolutions disapproving her action and advising her to reconsider it. Leigh addressed the Legislature of South Carolina in a forceful manner, urging the nullifiers at least to suspend the act until after the adjournment of Congress. They were not inattentive to his counsel.

Jackson expressed his disapproval of nullification in a proclamation and secured the passage by Congress of a "Force Bill," an act authorizing the President to suppress the rebellion in South Carolina.²⁰ Through the influence of Clay, however, a compromise tariff bill was passed one day after the "Force Bill,"²¹ which satisfied all parties and on March 11, 1833, South Carolina repealed her nullification act.

Again Leigh, after helping to quiet the storm that threatened the Union, retired to private life. He had now become the most prominent man in Virginia, and when a vacancy occurred in the Senate he was chosen to fill it.

The main issue on which Leigh was elected was the removal of the government deposits from the United States' Bank. The Bank had been established in 1791 by Hamilton, in the

¹⁸See Peck's *Jacksonian Epoch*, p. 193, *et seq.*

¹⁹See *Journal of House of Delegates*, 1832-3.

²⁰See Schouler's *History of United States*, Vol. IV., p. 94, *et seq.*

²¹See Schouler's *History of United States*, Vol. IV., p. 106.

face of Jefferson's opposition. In 1811, at the expiration of its charter, it was abolished. The war of 1812 brought so much disorder and distress in financial matters, that in order to remedy these ills and more firmly establish the currency system, the Bank was re-established in 1816, with a twenty year charter. After many variations in fortune, the Bank had become in 1828, at Jackson's election, a strong organization, with a capital of thirty-five millions, seven of which had been subscribed by the United States. The Bank was the depository of the Government, all surplus funds being placed at its disposal. In 1829, however, it incurred the displeasure of Jackson on account of some party trouble, and in his first message to Congress he suggested the abolition of the Bank at the expiration of its charter in 1836.²²

He continued his opposition to the bank until 1832, when he was disposed to drop it until after the election, but Clay thought he saw a chance to defeat Jackson in his re-election. Accordingly he forced the issue by bringing before Congress a bill for recharter. It passed both houses, but was vetoed by Jackson. The veto, however, did not have the effect Clay had anticipated, and Jackson was re-elected. Clay made his mistake by supposing that a great moneyed corporation like the Bank would command greater respect than General Jackson, the man of the people.²³

Jackson regarded his re-election as an endorsement of his policy, and renewed his fight against the Bank with redoubled vigor. In 1833 he ordered his Secretary of Treasury to remove gradually the deposits of the Government from the Bank, and place all incoming revenue in State banks. Secretary Duane refused to do so and was dismissed. His place was filled by Secretary Taney, whom Jackson knew to be a strong opponent of the Bank.²⁴ Congress, on Clay's motion, passed resolutions

²²See Wilson's *Division and Reunion*, p. 69, *et seq.*

²³See Wilson's *Division and Reunion*, pp. 79-80.

²⁴See Wilson's *Division and Reunion*, pp. 80-81.

censuring the President's action in dismissing his Secretary of Treasury for refusing to act in violation of his sense of duty, and attacking the new Secretary for removing the deposits for reasons "unsatisfactory and insufficient."²⁵

Virginia opposed the removal of the deposits mainly on account of the effect it would have on the money market,²⁶ and on February 22, 1834, the Legislature instructed W. C. Rives and John Tyler, her Senators, to vote for the restoration of them. Rives refused to do so and resigned.²⁷ Leigh was elected to fill the vacancy thus occasioned, and took his seat March 5, 1834. He introduced many memorials calling for the restoration of the deposits and spoke against the act, calling it a menace to public credit and denouncing it as unconstitutional in that the President had taken too much power on himself. He was, as he said, indifferent in regard to the renewal of the Bank charter, but the sudden removal of the deposits would produce a panic.²⁸ He fought the usurpation by the Executive of power rightly belonging to Congress.²⁹ This was a beginning of the opposition to Jackson, which marked the remainder of his career in the Senate.

Jackson protested against the resolutions of censure in April, 1834, in a very well-worded document, in which he said that the action of Congress was unconstitutional, in that it virtually impeached him without two-thirds majority of the Senate. This protest awakened all the fire of Leigh's eloquence and he denounced Jackson as a tyrant that had "the presumption, * * * which no monarch since the days of King Henry VIII. ever claimed before." After much debate resolutions rejecting the protest and declaring it not in accord with the rights of the Senate were passed May 7, 1834.³⁰

²⁵See Wilson's Division and Reunion, p. 83.

²⁶See various memorials from all parts of the State, published in the *Enquirer*.

²⁷See Tyler's Tylers, Vol. I., pp. 481-4.

²⁸See Speech on Deposits, March 12, 1834.

²⁹See Speech on Renewal of Bank Charter, March 18, 1834.

³⁰See Peck's Jacksonian Epoch, pp. 238-w and 239.

Leigh's term expired in 1835 and the campaign for his reelection was a close one. The counties of the West were opposed to him on account of his red-hot speeches in the Convention of 1829-30 in regard to suffrage and the basis of representation.³¹ He was much opposed, also, on account of his views on the recharter of the Bank. He had passed from the stage of indifference to it which marked his early speeches in the Senate to one of active support. He thought the Bank was unconstitutional, but so many advantages accrued to the country from it that they more than equalled the unconstitutional objection.³² After a bitter campaign, Leigh was elected by a majority of two.³³ He resumed his seat in the Senate, a more determined opponent of Jackson than before.

As soon as the resolutions of censure were passed, Benton, of Missouri, Jackson's most ardent supporter, announced his determination to have them expunged,³⁴ and in 1834 introduced resolutions to that effect.³⁵ They were lost by a large majority.

The sentiment in Virginia underwent a change, and in 1836 she instructed her Senators Tyler and Leigh, to vote for Benton's expunging resolutions. Tyler refused to obey and resigned, Rives taking his place. Leigh, however, refused to obey or resign. He wrote a masterly letter to the Legislature justifying his course. It will be remembered that in 1812 he introduced resolutions in place of those of Tyler, in the preamble of which he justified the doctrine of instruction.³⁶ In that preamble will be found this clause: "It is admitted without difficulty that if a State instruct its Senators to give

³¹Tyler's Tylers, Vol. I., p. 513.

³²See *Enquirer* (Richmond) of that date.

³³See Tyler's Tylers, Vol. I., p. 514.

³⁴See Peck's Jacksonian Epoch, p. 318, *et seq.*

³⁵See Tyler's Tylers, Vol. I., p. 515.

³⁶See Journal of House of Delegates, 1811-12, pp. 155-9.

a vote plainly unconstitutional, or to raise the standard of rebellion, the Senator is not bound to obey such instruction." Leigh maintained that the expunging of a resolution from the journal of the Senate was plainly unconstitutional, and he was not required to obey the Legislature in regard to it. Part of his party stood by him, but the majority denounced him as inconsistent. He wrote, "I know very well that I cannot do my duty to my country without a sacrifice of myself as a public man in my own State, for as an advocate of the right of instruction in 1812 I am peculiarly situated, but I am prepared to make the sacrifice without a sigh or murmur."³⁷

He retained his seat in the Senate, and in a most memorable speech against the resolutions, in which all his eloquence and power were displayed, he overthrew all his opponents and helped defeat the Benton resolutions a second time. He maintained that the act of expunging part of the journal of the Senate was unconstitutional, and said, "And, Mr. President, in that catechism which I learned at my mother's knee, I was taught 'to keep—to keep—to keep' my hands from peeking and stealing and my tongue from evil speaking."³⁸

In 1836 he resigned, as he maintained, solely on account of the "imperious necessity he was under of giving his whole attention to his private affairs, or rather in his sense of duty he owed to his family and to all his personal relations in society."³⁹

Benton persisted in his efforts to have the resolutions censuring Jackson expunged, and by a steady increase in the Democratic party finally succeeded.

Leigh was Reporter for the Supreme Court of Appeals from 1829 to 1841, and at the expiration of his service published the

³⁷See his letter to Tyler, *Tyler's Tylers*, Vol. I., p. 523.

³⁸See Wise's *Seven Decades*, p. 138, *et seq.*

³⁹See his letter in *Enquirer* of 1836.

reports in twelve volumes. The care with which this work was done have made them very valuable in the legal profession.

This was his last public service. He retired from political life never again to emerge. His name was mentioned in 1839 as a nominee for the Vice-Presidency by the Whig party, but he refused to allow it, for the reason, perhaps, that he was not more persistently "mentioned."⁴⁰

Though he was honored with some of Virginia's most important commissions, and was recognized as "one of the greatest and noblest men of his day,"⁴¹ he was too conscientious to be a politician. He said and did what he thought proper, regardless of what people thought of him. For this reason he never reached the eminence in political life to which his ability entitled him. He loved his country devotedly, but his State more, and any encroachments on her rights by a high-handed Executive were deeply resented. He was no fervid believer in human progress, and, therefore, always belonged to the conservative element in politics.

"As a debater he was of the Senatorial order. Had he been earlier in the Senate, as long as Clay, Webster, or Calhoun, he would have been master then with all three present. The longer he wore it the brighter and higher-mettled was his steel."⁴²

All through his life he was a devoted Christian. Having inherited a love for the Episcopal Church, he died in its arms on February 2, 1849, at his home in Richmond.

⁴⁰See Schouler's History of the United States, Vol. IV., p. 331-w.

⁴¹See Wise's Seven Decades, p. 139.

⁴²See Wise's Seven Decades, p. 142.

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**ROBERT R. LIVINGSTON—BEGINNINGS OF
AMERICAN DIPLOMACY.**

BY ROBERT KEMP MORTON, A. M.,

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ROBERT R. LIVINGSTON, better known as Chancellor Livingston, was born in New York City, on November 27, 1746. His paternal ancestors were Scotch and may be traced back to the time of James I., at whose death Sir Alexander Livingston was appointed one of the two joint regents during the minority of James II. James Livingston, son of Sir Alexander, was the first Lord Livingston, and Alexander, the fifth Lord and one of the two guardians of Mary, Queen of Scots, was the immediate ancestor of the American branch of the family. The son of the fifth Lord Livingston was a clergyman, the first of three generations of ministers of the Scottish Church. The last of these clergymen, and the only one of any prominence, was the father of Robert Livingston, the founder of the family in America and the great-grandfather of Chancellor Livingston. Robert Livingston came to America about the year 1683, and obtained a grant of some one hundred and thirty thousand acres of land on the eastern bank of the Hudson river. He became prominent in the affairs of the colony of New York, holding many important offices. It was through his influence, though without any sinister purpose on his part, that William Kidd was given command of a ship and sent against the pirates then infesting the Atlantic, but who, betraying his trust, turned pirate himself. This pioneer of a great family bequeathed to his eldest son, Philip, all his offices save one, and all of his estate with the exception of some thirteen thousand acres on the south side, known as the Manor of Clermont, which he gave to his second son, Robert, as a reward for some important services in detecting a negro

plot to massacre all the white inhabitants of the neighborhood. The Manor of Clermont was next inherited by Judge Robert R. Livingston, the Chancellor's father. Judge Livingston was a man of learning, culture and piety, prominent in the political life of the colony, and unwavering in his opposition to the unjust measures of George III. As was the custom then, he owned a large number of slaves, who were employed in tilling the lands of the Manor of Clermont. The Chancellor's mother was Margaret Beekman, a granddaughter, on her mother's side, of Robert Livingston, nephew of her husband's great-grandfather.¹

Chancellor Livingston's early life was spent on the paternal estate at Clermont. In due time he was sent to school and in 1765 was graduated from King's College, now Columbia University, on which occasion he delivered an oration on liberty, which was much complimented. After his graduation he studied law under William Smith, the historian, and under his kinsman, William Livingston, of New Jersey, being admitted to the bar in 1773, at which time he formed a partnership for the practice of his profession with John Jay. In the same year he was appointed Recorder of the City of New York by Governor Tryon, but in 1775 he was dismissed from office because of his sympathies with the Revolutionary movement. In April, 1775, he was elected to the General Assembly from Dutchess county. The following year witnessed his labors in the Provincial Convention, which changed the name of his native colony to the State of New York. In the latter part of this year he was elected to the Revolutionary Congress, but resigned in 1777 on being appointed Chancellor of New York, which office he held until 1801, one of his official acts being the administering of the oath of allegiance to George Washington as the first President of the United States. Previous to this he had served on the committee appointed to

¹Hunt's Life of Edward Livingston, Chapter I.

draw up a Constitution for New York State, and was, also, one of the committee appointed by the Revolutionary Congress to draft the Declaration of Independence, though at first opposed to such a declaration. His duties as a member of the "Committee for Facilitating the Military Operations on Hudson's River" required his presence in New York before the Declaration was ready for the signatures of its framers. While on this latter committee, Livingston was a constant adviser of Washington. Shortly after Benedict Arnold was wounded at the battle of Saratoga, Livingston urged Washington to place him in command of West Point, as a man "whose courage is undoubted, who is the favorite of our militia, and who will agree perfectly with our Governor."² That the Commander-in-Chief of the Continental forces valued the counsel of the future Chancellor is made plain by his pleading the above advice as a justification of the appointment.³ At another time he wrote to Washington, severely criticising General Putnam for the incapacity shown by that officer at the battle of Long Island, and regretting, "that his (Putnam's) patriotism will not suffer him to take that repose to which his advanced age and past services entitle him."⁴ In 1779 the Chancellor was again honored with a seat in the Revolutionary Congress, but declined to serve, preferring to remain in New York. But the particular aim of this paper is to give a complete outline of Livingston's diplomatic labors than has hitherto been attempted, and hence the mere recounting of the events of his life ceases at this point.

THE UNITED STATES DEPARTMENT OF FOREIGN AFFAIRS.—Inasmuch as the subject of this paper was the first Secretary of Foreign Affairs, and inasmuch as he was closely identified with this department of our Government in its infancy, no sketch of his career can be complete, unless it gives some atten-

²Spark's Writings of George Washington, VII., 95.

³Ibid., 265.

⁴Spark's Writings of Washington, V., 284.

tion to the early duties and privileges of this branch of the Executive power. The idea which resulted in the establishing of a Department of Foreign Affairs was first advocated by John Adams, who, in the Fall of 1775, induced Samuel Chase, of Maryland, to make a motion in Congress that ambassadors be sent to France.⁵ As the result of Chase's motion, the Revolutionary Congress, sitting at Philadelphia, on November 29, 1775, appointed a committee of five to correspond with "friends in Great Britain, Ireland, and other parts of the world," and on March 3, 1776, Silas Deane, of Connecticut, was selected as the agent of this committee in France, thus becoming the first American diplomat. This committee was known as the "Committee of Secret Correspondence," and proved so unsatisfactory in attaining the desired end that Congress again took up the subject and appointed a committee to report a plan for the Department of Foreign Affairs. On January 10, 1781, Congress received the report of this committee and determined that, "the rising power of these United States entitle them to a place among the great potentates of Europe, while our political and commercial interests point out the propriety of cultivating with them a friendly correspondence and connexion." Recognizing the fact that these ends could be obtained only by "a constant attention to the State of Europe," and seeing the necessity for a regular exchange of information with all its representatives on the Continent, Congress resolved:

"That an office be forthwith established for the Department of Foreign Affairs, to be kept in the place where Congress shall reside;

"That there shall be a Secretary for the despatch of business of said office, to be styled 'Secretary of Foreign Affairs.'⁶"

It was the duty of this Secretary to preserve all books and papers belonging to the Department, to correspond with the

⁵Adam's Life of John Adams, I., 199.

⁶Secret Journals of Congress, 580, *et seq.*

Ministers of the United States at foreign courts, and with the Ministers of Foreign Governments, in order that he might obtain the most extensive and useful information to be laid before Congress on demand. He was also required to transmit communications from Congress to Ministers of the United States in foreign countries, and to the ministers of foreign governments. An interesting provision of this act is: "The said Secretary shall have liberty to attend Congress, that he may be better informed of the affairs of the United States and have an opportunity of explaining his reports respecting his Department."⁷

Accordingly, Congress, on August 10, 1781,⁷ elected Robert R. Livingston the first Secretary of Foreign Affairs, which position he accepted September 23, 1781,⁸ entering on the duties thereof on October 20, 1781.⁹ The Southern and New England States opposed Livingston with Arthur Lee, as they considered him to be unfriendly to the respective claims of these two sections to the navigation of the Mississippi river and the Newfoundland fisheries. These fears were later found to be without any justification.

On February 22, 1782, Congress again took up this subject, and the official designation of the head of the Department was changed to, "Secretary to the United States of America for the Department of Foreign Affairs." By the provisions of the same act, in answer to a letter from Livingston, requesting more explicit instructions as to the duties of his office,¹⁰ the powers and duties of the Secretary were more fully defined. About the only important addition to the act of January 10, 1781, was the fixing of the salary of the Secretary at four thousand dollars per annum, exclusive of office expenses.¹¹ It may be interesting to remark here that the entire expense for sal-

⁷Ibid., 587.

⁸Wharton, IV., 727.

⁹Ibid., 795.

¹⁰Wharton, V., 132.

¹¹Ibid., 199, *et seq.*

aries for the Department of Foreign Affairs for this year was just six thousand dollars, and that Livingston was conducting the business of the Department with the assistance of two clerks.

When the Federal Constitution was ratified, Congress naturally turned to the system for foreign relations adopted by the Confederation and passed an act establishing the Department of Foreign Affairs with practically the same organization and powers which that Department had under the Confederation.¹² This act was approved by the President on July 27, 1789, and on September 15, 1789, another act was passed changing the name of the Department to the "Department of State,"¹³ an unwise and misleading change. There has been a great increase in the volume of public business conducted by this Department, and it has been found necessary to systematize its labors by dividing it into five Bureaus, as well as to materially increase the cost of its maintenance, but the act of July 27, 1789, yet remains the primary legislation on which it is founded.

Livingston's appearance at the head of this Department was due to the working out of the principle that power, in order to conserve the interests of the people and advance the purposes of government, must be vested in some one responsible functionary, who must have the greatest possible freedom of action and initiative compatible with the fundamental principles of the Government. Congress, being enamored of the erroneous idea that in trusting power to one man was recognizing the principle of monarchy, had vainly tried to inform itself of the course of European events, and the policies of European Courts, through the Committee of Secret Correspondence. The result was that every man's business became no man's business, and Congress was compelled to abolish this

¹²United States Statutes at Large, I., 28.

¹³Ibid., 68.

useless part of the governmental machinery. Mr. Lovell, a member of the committee wrote in August, 1779, "There is really no such thing as a Committee of Foreign Affairs existing. No secretary or clerk further than I persevere to be one and the other. The books and papers of that extinguished body lay yet on the table of Congress, or rather are locked up in the Secretary's private box." - Congress had tried to institute an organization that would be absolutely infallible and had failed. They remedied the blunder by instituting an organization that could go wrong and yet was vested with sufficient power and responsibility to insure its integrity.

THE DIFFICULTIES OF LIVINGSTON'S TASK.—When he took charge of this infant department of an infant government, Livingston must have realized the difficulties that lay in his pathway. He was an explorer in an almost new field, having no precedents to guide him and none too strong a government to support him; with powers none too great and being subject always to the will of Congress. The meagre records of Congress and of the Committee of Secret Correspondence were of no great value. The means of communicating with Europe were so undeveloped that there was no certainty when despatching letters that they would ever be received. This lack of facilities might keep him for weeks, or months, in absolute ignorance of the course of events at courts where Congress had ministers; nor was it certain that instructions for these ministers would not fall into the hands of the enemy, and so defeat their purpose.

The ministers themselves might never reach the courts to which they were accredited, as was the case with Henry Laurens, who was captured by the British while on his way to Holland to negotiate a treaty and, if possible, obtain a loan. Again a minister might not be recognized, or he might be subjected to annoying delays after he had reached his destination, as Jay could testify after his experiences at the Spanish Court. These uncertainties contributed to the perplexities and diffi-

culties of the Secretary in carrying out the wishes of Congress, while the disinclination of the European powers to receive the United States into the family of nations required of him the greatest tact in directing the actions of the foreign ministers. Besides all these hindrances, Livingston had frequently to complain to Franklin, Jay, and especially Adams, of the meagreness of their communications to the Home Government. There would seem to be some ground for this complaint when we consider that Livingston's first letter to Adams was dated November 1, 1781, while the first reply of any importance which Adams made was dated February 14, 1782.

THE PEACE COMMISSION.—On September 27, 1779, John Adams was elected minister plenipotentiary to Great Britain to negotiate a treaty of peace and commerce whenever that nation should recognize the independence of the United States. No opportunity occurring for the accomplishment of this object his commission was annulled and he was sent to Holland to negotiate a loan, being later commissioned to negotiate a treaty of commerce. This action resulted finally in the election of a committee to treat for peace, composed of Adams, Jay, Franklin, Laurens, and Jefferson.¹⁴ This commission was finally completed June 15, 1781, but over two years before that time, Gerard, the French Minister, at Philadelphia, had appeared before Congress, and in obedience to instructions from his master, informed that body that the King of Spain had finally taken definite action and would "perform the duties which his alliance with the King (of France) imposes upon him, unless England agreed to his mediation in the war. These were duties imposed by the Family Compact of 1761, which in no manner applied to the colonies. With the expectation that this act on the part of his Catholic Majesty would bring a favorable turn in affairs, Gerard pressed upon Congress the necessity for promptly designating some person, or persons, with proper

¹⁴Wharton, IV., 502, *et seq.*

powers and instructions to *assist* in negotiating a treaty of peace.¹⁵ But there must be exercised much care, lest too many inferences as to France being wholly disinterested in making the above communication. Gerard's form of expression therein is somewhat equivocal, and it is a not unwarranted conclusion that France saw gain for no one but herself by the proposed interference of Spain. However, Congress appointed a committee to consider the communications from Gerard, and resolutions were reported containing essentially all the points ever considered in late revisions of the instructions to the Peace Commission.¹⁶ About six months after the adoption of these instructions John Adams was elected minister plenipotentiary to Great Britain, with "full power to negotiate a treaty of peace,"¹⁷ but it was afterwards thought best to change the character in which he went, and the commission named above was elected.

By the terms of these instructions, which were made binding upon the commission as well, Adams was "to make it a preliminary article to any negotiation that Great Britain shall agree to treat with the United States as sovereign, free and independent," and this object was to be "assured and confirmed by the treaty, or treaties of peace, according to the form and effect of the treaty of alliance with his most Christian Majesty. This clause of the instructions, with later strengthenings, was probably the main purpose of Gerard's communications noticed above.

The boundaries of the States were to be the ocean and the Mississippi river on the east and west respectively; the well-known line between Canada and the United States on the north, while the line between the States and Florida was to be accurately determined.

The cession of Canada and Nova Scotia to the United States

¹⁵Wharton, III., 39.

¹⁶Ibid., 293.

¹⁷Wharton, III., 337.

is declared necessary to the continuance of peace, but Adams is instructed not to make this an ultimatum. He is also empowered to "agree to a cessation of hostilities during the negotiation," provided England agrees to the same and withdraws all troops from the United States.

Some previous instruction to Jay as minister plenipotentiary at the Court of Madrid in regard to the navigation of the Mississippi were re-affirmed.

The right of the citizens of the United States to take fish on the banks of Newfoundland, and on other North American coasts, within proper limits, was stated in the instructions for negotiating a treaty of commerce and was in no case to be given up.

Finally, in all matters not mentioned in his instructions, he is to be guided by his discretion and knowledge of the interests of the States and "by the advice of our allies." This was the part of the instructions to which the French Minister objected, and which, at his dictation, Congress later so altered as to place its commissioners and their country in the power of France. On the day on which the commission was completed, Congress authorized it to accept the mediation of the Empress of Austria and the Emperor of Germany. The King of France refused "to accede to the mediation of the imperial courts until they should agree to acknowledge the American plenipotentiaries in a manner conformable to the dignity of the United States,"¹⁸ and England refused to permit any second power to interfere in the settlement of her difficulties with the revolted colonies. In a resolution of the last mentioned date the commission is referred to instructions to Adams which have just been stated.¹⁹

Thus it will be seen that when Livingston became Secretary of Foreign Affairs the commissioners to treat for peace had already been elected and had been instructed as to the points which they should make the subject of their negotiations.

¹⁸Wharton, IV., 859.

¹⁹Ibid., 502, *et seq.*

Consequently, he, at first, forbore to make any comment on those instructions, but later he stated the claims of the States and advanced the strongest and most convincing arguments in support thereof ever advanced by any of the revolutionary leaders.²⁰

LIVINGSTON AND FRANKLIN.—It will now be necessary to engage in a brief review of Livingston's official relations with each of the American foreign ministers, for, although the Peace Commission had been elected, Adams was in Holland, Jay yet remained in Spain, Laurens was still a prisoner in the Tower of London, while Franklin resided at Paris. Livingston carried on a more extended and a more important correspondence with Franklin than with any of the other commissioners, requesting him to communicate frequently all information to Jay and Adams. This was due, perhaps, to the greater ease of communicating with France. It may, also, have been due to the greater importance of Franklin's mission and to his superior influence at that court. A testimony of this is Livingston's request to Franklin to present General Du Portail and Colonels de Laumoy, and de Gouvion, who are coming home on leave, at the court of their sovereign and to obtain for them that recognition to which their services in America entitled them.²¹

Livingston opened his official correspondence with Franklin by announcing the change in the Department of Foreign Affairs and his own election to the head thereof, at the same time giving much interesting news from America. Not long thereafter he had the pleasure of informing Franklin of the surrender of Cornwallis; in the same communication impressing him with the need the States have for his labors and urging him to remain in the diplomatic service.²²

Secretary Livingston was ever watchful to supply the Representatives of Congress abroad with varied and forceful argu-

²⁰Ibid., 849.

²¹Wharton, IV., 868.

²²Ibid., 810.

ments in support of the advances they must seek and the claims it devolved on them to make. Shortly after his official connection with Congress began, he was informed that France would furnish no more money for the conduct of the war. Calling Franklin's attention to the fact that even the strongest nations in Europe could not carry on a war without borrowing, and painting how a failure in the securing of additional loans would cause dissatisfaction in the army by depriving the soldiers of their promised pay; how it would destroy public credit, thereby prolonging the war. He would have the material resources of the country so brought to the attention of the French King that he could have no fear in lending the desired specie. He shows that it is to France's advantage to keep a fleet in American waters, at the same time demonstrating the probable futility of any attempt to drive the British from New York and Charleston without a fleet to support such operations. Among other reasons he mentions the expense to England of keeping an opposing fleet in American waters as compared with the cheapness of the maintenance of that of France and the opportunities for privateering offered to the latter. "Surely," he says, "it is not possible that France, after having done so much for us, after having brought us in view of the desired haven, should oblige us to lose the advantage of all she has done."²³

In the spring of 1782 events bore an even darker aspect for the struggling States. Spain and Holland did not appear to favor their success and France seemed determined to lend them no more money. Livingston communicated these impressions to Franklin and with dignity, as always, argued their cause as just claimants on France, as she, too, derives many advantages from the war. The minister at Paris is desired to use his best efforts to secure an additional loan, and also, to interfere in behalf of the American seamen confined in Eng-

²³Wharton, V., 4, *et seq.*

land, and to report as to the practicability of arranging an exchange of prisoners; he is informed of the erratic behaviour of Vermont and New Hampshire in pretending to form a treaty of neutrality with Canada and to return to British allegiance on the conclusion of peace, lest the British agents in Europe should prejudice the cause of independence by their version of the affair.²⁴

Franklin replied that the outlook in Europe was brighter. There had been a change in the British Ministry, but he did not anticipate any advantages for America because of the change. However, the friendly relations maintained between the troops of the king and those of the States, and the financial reforms introduced by Robert Morris advance the standing of the cause in France. He, too, is desirous of taking some action to relieve the sufferings of the one thousand, or more, American prisoners in England.²⁵

While these stirring events were taking place Congress found leisure to take steps looking to the commemoration of the Yorktown victory, and accordingly, instructed its Secretary of Foreign Affairs to prepare a design for a "pillar" in memory of the event. The Secretary asked Franklin to procure a fit design, to be submitted to Congress.²⁶ Franklin replied that he had for some time had in mind the striking of a medal representing the United States as the infant Hercules strangling two serpents, while Minerva, as his nurse, representing France, is sitting by.²⁷ Livingston was much pleased with the idea.

Livingston's correspondence with Franklin was both pleasant and profitable. The Secretary found it necessary once or twice to reprove the sturdy old patriot for a seeming dilatoriness in his communications with the home office, but withal the Pennsylvanian kept his chief well-informed of the course of events in

²⁴Wharton, V., 160, *et seq.*

²⁵*Ibid.*, 214, *et seq.*

²⁶*Ibid.*, V., 53.

²⁷*Ibid.*, V., 214.

Europe, adding, when occasion offered, sagacious comments on European politics, and so detailing his movements, the advances of other governments, and the probable result of their policies on the cause of independence, that it would have been a calamity indeed had he quitted the service of his country before the conclusion of peace. At the same time Franklin, on different occasions, expressed the obligations his chief had placed upon him by giving accurate information of the trend of events in America, the colonies' claims on the Continental powers, and logical and convincing arguments in support of these claims.

LIVINGSTON AND ADAMS.—When Livingston was elected Secretary of Foreign Affairs Adams was in Holland, and, owing to the difficulty of communicating with that country, it was nearly three months afterwards before Adams received news thereof in Livingston's first official advice.²⁸ The Secretary instructed Adams to be on friendly terms with the government, and with all well-wishers of his country, but cautions him to avoid all appearance of intrigue. And then, too, it would be well to spend as much time as possible at the Hague, in order that, not being yet recognized in his official character, he may foster an interest in America. At the same time he should use all diligence in becoming acquainted with the government of Holland, as well as the governments of the other European powers.²⁹

But soon after arriving in that country Adams made known his public character, for which hasty action his chief reprimanded him, and asked an explanation. In his second letter Adams gives the desired explanation at great length, the burden of his justification being the position he would at once assume in Holland as the representative of the successful American colonies, and the personal safety and respect which would result from his being thus known. He also thought that since

²⁸Wharton, IV., 850.

²⁹Ibid., 806, *et seq.*

Vergennes, the French Secretary of Foreign Affairs, knew the contents of his instructions, they must be known all over Paris, and perhaps all over Europe, as he did not trust Vergennes. Hence, he saw nothing to be regretted in his premature disclosure. However, if any weight is to be given to all the reasons which Adams advanced in support of his action it would be necessary to conclude that he had influenced every political movement on the continent, in the summer of 1781, that was favorable to the American cause, and had also contributed thereby to the success of the allied arms at Yorktown.³⁰ Evidently he had cause to fear that the accusation of vanity would be brought against him. Yet, less than one week later, Adams informed Livingston that he expected no treaty whatever, and that it would be some time before all the provinces acknowledged the independence of the United States. Nevertheless, in about two months he was received as the minister plenipotentiary of the United States, the independence of that country being thereby recognized.

After this the Secretary's communications to the minister at the Hague were more narrative in character than otherwise. Considering the nature of the mission this was all that was necessary. Adams' correspondence was quite voluminous, but much of it was unimportant. He was fond of giving details that were of no value, and less interest, and often digressed in order to minister to his own vanity, entirely disregarding essentials. Hence Livingston found it necessary to suggest ways in which valuable information might be obtained, and to urge on him the importance of making all possible use of the good offices of the French Minister,³¹ and of being wary of the English. Despite this, Adams' letters contained much important news and many wise observations on the political happenings of the Continent, and especially on public opinion

³⁰Wharton, V., 192, *et seq.*

³¹Wharton, V., 220.

in the United Provinces. Whatever may have been his failings he was devoted to the cause of his country and was untiring in his efforts to advance that cause. He had the sagacity to predict when he went to Holland that no loan could be obtained until after the negotiation of a treaty of commerce, and after two years of tedious and trying effort he signed such a treaty on behalf of the United States, and later procured the much needed loan, and is entitled to the gratitude of this nation for having brought to pass the second most important event in its diplomatic history. A passage from his diary, written just after the signing of the treaty with Holland, aptly illustrates the fervor of his patriotism: "One thing, thank God! is certain. I have planted the American standard at the Hague. There let it wave in triumph over Sir Joseph Yorke and British pride. I shall look down upon the flagstaff with pleasure from the other world."

LIVINGSTON AND JAY.—On the same day on which John Adams was elected minister plenipotentiary to England John Jay was elected minister plenipotentiary to Spain—an ill-advised mission—to induce her to accede to the existing treaties with France, or failing in this to negotiate new treaties which should contain "conditions analogous to the principal aims of the alliance and conformable to the rules of equality, reciprocity, and friendship." By the terms of his instructions³² the navigation of the Mississippi was in no case to be abandoned; he was to make an effort to secure some convenient port, or ports, below the thirty-first degree of north latitude, to be used as a depot by American ships, and to obtain a loan, if possible. Jay was still engaged in this unfruitful and unpromising mission, when, on November 1, 1781, he was notified of Livingston's election to the office of Secretary of Foreign Affairs.

During the eight months in which he directed Jay's mission in Spain, Secretary Livingston made no deviation in his advices

³²Wharton, III., 352, *et seq.*

from the instructions of Congress passed prior to his taking charge of the foreign affairs of the Confederation. Yet, in all his letters to Jay, as well as to all the other foreign representatives of the United States, the most convincing arguments in support of American liberty are found. In some instances he repeated, as was necessary, his reasons to more than one minister. Hence we find in his advices to Jay a repetition of many of the arguments³³ supplied to Franklin for use in persuading France to support the Revolution. The situations and political conditions of the two countries were somewhat similar, in that each was the implacable enemy of Great Britain, and desired to see her humbled, in the hope of thereby advancing their own interests. The history of Jay's mission is a tale of procrastination on the part of the king of Spain, while his instructions experienced a checkered career. When Jay went to Spain he was instructed to not recede from the demand for the free navigation of the Mississippi, and some eight months later Congress again affirmed its determination to insist on this right;³⁴ but several months afterwards Jay's astonishment at being handed, by the Spanish Minister, a revision of his instructions desiring him to secede from this demand,³⁵ may be imagined. But to all Jay's requests for a recognition of his official character a deaf ear was turned, though he did succeed in obtaining a small loan. Livingston suggested to Jay, as his own private opinion, that Spain might benefit her own finances, as well as aid both France and the United States, by vesting her treasure at the Havana in European bills, which could be sold to France for transmission to America to pay her soldiers, and thus without danger or expense conveying her treasure home;³⁶ but there is no evidence that the suggestion was acted on.

³³Supra, 12.

³⁴Wharton, IV., 78.

³⁵Ibid., 257-259.

³⁶Ibid., 815.

It is not surprising then, that Jay had no confidence in the Spanish Minister, nor that he was not able to share Livingston's faith in the good intentions of the French court. Before leaving Madrid for Paris he informed his chief that he had hinted to the French Ambassador at the former court that his government would probably be interested in preventing the recognition of the independence of the States by England, until the conclusion of a general peace, lest they should become unmanageable. The French ambassador did not deny the insinuation.³⁷ On arriving in France, and finding that country the avowed advocate of the Spanish claims, he became even more suspicious of Vergennes, for he saw clearly that this minister could not consistently advance the claims of both Spain and America, because those claims conflicted. Yet, Jay probably expected too much of Vergennes.³⁸ But he could not satisfactorily explain the conduct of that minister in advising the American commissioners to treat with Oswald,³⁹ the British envoy, whose instructions did not recognize the independence of the United States, but who gave assurances that this independence would be acknowledged by the treaty. Another fact that made him suspicious of Vergennes was his persistent efforts to have him negotiate with Count d'Asanda, the Spanish Minister at Paris, without requiring the latter to display his instructions. Jay communicated all his suspicions to Livingston, but the Secretary was firm in his faith in the French court. The official connections of Jay and Livingston were mutually agreeable and advantageous. The former's letters to his chief gave the most minute and careful information concerning his mission and the court at which he resided.

LIVINGSTON AND DEANE.—Silas Deane, who had been so enthusiastic in the patriot cause, became dissatisfied with the treatment accorded him and entered the service of George

³⁷The Corr. and Public Papers of John Jay, II., 262.

³⁸Infra.

³⁹Sparks, VIII., 128.

III. Some of his letters were intercepted and published in Rivington's *Gazette*. Livingston informed Franklin, Jay and Luzerne of Dean's apostasy and warned them against him. Franklin replied that Deane was living at Ghent in reduced circumstances, and that he had come out openly in support of Arnold's treason. Livingston's relations with the American agents at different courts will be noticed elsewhere in these pages.

THE ATTITUDE OF FRANCE.—A very interesting, as well as a much disputed, phase of this study has now been reached—viz., the attitude of France towards the United States during the Revolution and especially her attitude during the negotiations for the peace of 1782-83. Next to England the States were dependent on France for the achievement of their independence, but once Great Britain had been brought to favor that independence, European jealousies made the young governments practically dictators of their own terms. By the conditions of the treaty of 1778 France guaranteed the "liberty, sovereignty and independence"⁴⁰ of the United States, and by the same article of the same treaty also agreed to guarantee to the States all British territory in their possession when hostilities ceased. This might, or might not, be interpreted to mean that the United States would be supported in all territorial claims they might make, according as France considered them to be, or not to be, in possession of those claims. France was willing to do all in her power to humiliate England for the treaty of Utrecht and the Peace of Paris were yet fresh in her memory. At the same time it is doing her no injustice to say that, while she wished the colonies to be independent, she wished them to be independent in such a manner that they would always be the enemies of England. Nor did France wish to see the revolted colonies become independent of her aid, while being bound to Spain by the terms of the Family Compact, the interests of his Catholic Majesty became her

⁴⁰Secret Journals of Congress, II., 86.

interests. It was the conflict of his Catholic Majesty's interests with those of the States that caused France to play a double part.

In January, 1780, Chevalier Luzerne, who had succeeded Mr. Gerard as French Minister at Philadelphia, informed Congress that he had "some particular circumstances to communicate relative to the present, or probable state, of the negotiation." These "particular circumstances" consisted of deprecating the formation of alliances between the United States and European courts, and informed Congress of the determination of the Spanish court to "form * * * one common cause with them and with France."⁴¹ In a later communication Luzerne made it plain that France would support Spain in preference to the United States whenever the demands of the two countries should conflict.⁴²

Not content with this, Luzerne, on May 26, 1781, sent another advice from his master to Congress: "It is of great importance that this Assembly should give their plenipotentiary instructions proper to announce their disposition to peace, and their moderation, and to convince the powers of Europe that the independence of the thirteen United States and the engagements they have contracted with the king are the sole motives which determine them to continue the war, and that whenever they shall have full and satisfactory assurances on these two capital points they will be ready to conclude a peace. The manner of conducting the negotiation, the extent of the powers of the American plenipotentiary, the use to be made of them, and the confidence that ought to be reposed in the French plenipotentiaries and the king's ministers are points which should be fully discussed with a committee."⁴³

This was most extraordinary language and was certainly enough to excite the suspicions of any government. But the

⁴¹Secret Journals of Congress, II., 303-306.

⁴²Ibid., 310-311.

⁴³Ibid., 413.

end was not yet. "In doing justice to the patriotic character of John Adams, Luzerne gave notice to the committee of several circumstances which proved it necessary that Congress should draw a line of conduct to that minister of which he might not be allowed to lose sight."⁴⁴ Adams' ungovernable temper might lead him into many undiplomatic blunders, but it could not blind him to the dangers of being subservient to France, and Vergennes saw in him an enemy to the desires of Spain. Again, he said, if the colonies had any confidence in the king's friendship and benovolence and were persuaded of his attachment to the principle of the alliance it would be necessary to prescribe to their plenipotentiary a perfect and open confidence in, and a thorough reliance on the king, and having given him the principal outlines of his conduct, would instruct him to receive his orders from Count Vergennes, "or from the person who might be charged with the negotiation in the name of the king." He advised this lest, as he said, there should be a difference in the demands of the American plenipotentiary and those of the king's representative.

But, the only point which Luzerne wished Congress to assert as an ultimatum was the "most perfect independency" of the colonies. Not a word was said as to securing their other demands, and it has been seen that France considered Spain as having a valid right to the Mississippi river and to the lands lying between that river and the Alleghanies. In all the communications which the French court made to Congress the question of the right of the United States to the free navigation of the Mississippi and their right to the territory between the Mississippi and the Alleghanies were quietly ignored. Ambiguous expressions as to the king's earnest purpose to observe the terms of the treaty of 1778, by securing the acknowledgment of American *independence* with quiet hints as to the duty France owed to Spain always much in evidence. But, in justi-

⁴⁴Secret Journals of Congress, II., 416.

fication of France, let it be said that she had treaties with Spain and that the treaty of 1778 with the United States did not bind her to secure more than independence for that country, as Franklin was astute enough to see. Besides, France was herself interested in the Newfoundland fisheries.

Livingston did not consider, however, that Adams and Jay had good cause to be suspicious of the intentions of the French court, nor did Franklin agree with them, although he was not pleased with the instructions which made the Peace Commission a puppet in the hands of Louis XVI. Nevertheless, Congress was completely under the spell of the French Minister and literally incorporated his ideas into the additional instructions authorizing the acceptance of the mediation of Russia and Germany. "You are to make the most candid and confidential communications upon all subjects to the ministers of our generous ally, the King of France; to undertake nothing in the negotiations for peace or truce without their knowledge and concurrence, and ultimately to govern yourself by their advice and opinion, endeavoring in your whole conduct to make them sensible how much we rely upon His Majesty's influence and support in everything that may be necessary to the present security or future prosperity of the United States of America." The surrender was complete, and but for the disregard of these instructions in the treaty negotiations the States must have lost much for which they had fought.

THE ATTITUDE OF SPAIN.—In Spain the throne was occupied by Charles III., a well-meaning, but weak prince, who loved France, hated England, and constantly sought Gibraltar. His minister advised England that the independence of the British Colonies would be no less injurious to Spain than to England, and the king refused to ally himself with the colonies, but attacked the mother-country for reasons of his own, while the Revolution was in progress. Spain had colonies of her own, and was too thoroughly educated in monarchic ideas to aid in the establishment of the principle of revolt from hereditary authority.

But it is now perfectly clear that she had other reasons than this for the long delay and persistent humiliation to which Jay was subjected in his endeavor to negotiate a treaty at her court.

Livingston suspected that Spain desired to see the colonies confined between the Alleghanies and the Atlantic, and in view of the very positive communications from the French minister on this point it is astonishing that his suspicions did not become certainties. The region between the Mississippi river being conceded to be English territory, Spain hoped to conquer it and then, regaining possession of Gibraltar by treaty, or otherwise, attain all her objects without entering into an alliance with the United States. Jay sent Livingston an extract from a Spanish newspaper, which announced the capture of the post of St. Joseph from the British garrison, by some Spanish troops and Indians from St. Louis, and the taking possession of the country drained by the Illinois in the name of the King of Spain, intimating the probable purpose which this act was intended to advance.⁴⁵ Florida was yet Spanish territory, and owning Louisiana, with the eastern part of the Mississippi valley added thereto, a magnificent colonial empire could be built up to support the decaying fortunes of the Catholic kingdom.

Becoming impatient at Spain's delay the Secretary informed Jay in April, 1782, that the suspected purposes of Charles III. were such as could never be realized. He said that her hope of gaining both Gibraltar and part of America by the proposed mediation was vain, for, if the mediators did not award the lands lying between the Father of Waters and the Alleghanies to the United States they must consider Britain's claim to these lands as better than the claim of Spain, because the treaty of 1763 had agreed to recognize all lands east of the river as British territory. Livingston considered it would be

⁴⁵Corr. and Public Papers of Jay, II., 269.

sound policy for the States to support the Spanish demand for Gibraltar, so that her claims in America might be weakened. Nevertheless, he looked upon American independence as an accomplished fact, and the members of the Confederation, knowing the value of the country drained by the Mississippi river could not be expected to sit idly by and see the whole of it sacrificed to the unbounded ambitions of other governments, though they might yield their rights to this territory for important commercial advantages from some European government.⁴⁶ Inasmuch as Jay's proposals were meant to advance the common cause against England, Livingston could not see why Spain should be so indifferent to them. Her dilatoriness might cause a change in the sentiment of the American people towards her and a consequent withdrawal by Congress of the concessions offered. The Secretary argued that to wait until the conclusion of a general peace could not benefit Spain, who would thus be driven to support British claims in preference to those of America, and thereby her own cause would lose strength. As a whole Spain's conduct was distinctly unfavorable to the United States, while the action of Count Florida Blanca in promising a loan, which was afterwards refused, was unworthy of even a cannibal chief.

THE ATTITUDE OF ENGLAND.—When General Conway in the House of Commons moved, on February 22, 1782, that the war with the revolted colonies be discontinued English sentiment towards America began to register its change. A further step was taken on March 4, when the House agreed without a division to consider as enemies of the king all those advising a continuance of the war, and the cycle was almost completed on March 15, when a motion of lack of confidence in the government, which motion caused the resignation of Lord North's ministry on March 20, was lost by a majority of nine. Lord North was succeeded by Lord Rockingham, who exacted of the king his promise to put no veto on the recognition of the inde-

⁴⁶Corr. and Public Papers of Jay, II., 187, *et seq.*

pendence of the colonies. This change in the ministry brought to the front two men who were to become leaders in the settlement of peace with America. Lord Shelburne became Secretary for Home Affairs, and Charles James Fox, became Foreign Secretary. The former had all along opposed the recognition of independence and persisted in this course until after he came to the head of the government; the latter had consistently advocated the acknowledgment of independence. However, while Shelburne preferred a federal union to a recognition of independence, when he saw the unpracticability of his plan he was for granting independence on most liberal terms, seeing that England had need of the friendship as well as the commerce of the young republic. Fox would acknowledge independence and leave the States to obtain whatever commercial advantages they could. Both of these ministers claimed the right of conducting the negotiations with the colonies. Shelburne, being at the head of home affairs, was undoubtedly the proper person to direct the business, as independence had not been acknowledged. Before anything of importance could be done Rockingham died and Shelburne came to the head of the government with Thomas Townshend in charge of home affairs. Fox refused to serve under the new ministry.

It so happened that Shelburne now discovered that the demands of Spain, supported by France, conflicted with those of the States. Being convinced of the wisdom of conciliating the colonies Shelburne determined to separate them from the French and treat with them separately. This was accomplished, though Shelburne's ministry was voted out of power, on account of the liberality of the terms granted, by a coalition between Fox and Lord North, who, however, ratified Shelburne's provisional treaty as the definitive treaty of peace between Great Britain and America without the change of a word. Fox, was not, in spite of his vehement demands for the cessation of the war and the recognition of independence, a true friend of the United States, for the conduct of the coalition

ministry was such as to bring on the war of 1812. Had he been, as Shelburne was, a disciple of Adam Smith and a believer in the exalted political and economic principles of that teacher his name would now be held in greater esteem by posterity. Shelburne has been accused of duplicity, but there is no foundation for the charge, and despite his long-continued opposition to the independence of the United States, proved himself to be a truly great statesman, who could see that governments are not exempt from the operation of primary economic phenomena.

(To be concluded next year.)

SPENCER ROANE.

REPRINTS FROM RICHMOND ENQUIRER.

THE name and work of Spencer Roane have been so obscured in the study and writing of Virginia history that few even know who the man was. He was a friend and follower of Jefferson and an intimate co-worker in Democratic counsels with the famous Thomas Ritchie. During the first two decades of the Nineteenth century he was at the head of the Virginia Court of Appeals and as such he came often into conflict with John Marshall, the Chief Justice. As the opponent of Marshall and, at the same time, leader of the Republican party, he revived the principles enunciated in the Virginia and Kentucky Resolutions at the close of the War of 1812. From this time till his death, in 1822, Roane exerted much influence in building up the States-Rights dogma. He wrote articles for the papers, made public speeches and in every legitimate way opposed the great nationalist teachings of the United States Supreme Court.

It is the purpose of the editor of the Branch Papers to print whatever letters and articles from Roane can be found. Since the second phase of the agitation which finally led to secession in Virginia was begun by him in 1816, it seems not improper to begin the publication with his opinion in the famous *Hunter vs. Martin* case. This opinion was handed down February 1, 1816. It represents the unanimous opinion of the State Supreme Court. Without going into a full account of the case it seems necessary to note that this suit involved the interpretation of a treaty, as well as the decision as to the real ownership of large tracts of land formerly held by Lord Fairfax. The case was first decided by the Virginia District Court at Winchester, in 1811, in favor of the Fairfax claimants. The State Court of Appeals reversed the decision, but permitted

a writ of error by which it was taken to the United States Supreme Court, where the ruling of the State Court was reversed. In addition, the United States Court issued a mandate requiring the State Supreme Court to carry into effect the decree of the former. It was in response to this mandate that Roane wrote the following opinion, which was printed in full in the *Enquirer*, and which was the occasion of much discussion at the time. It was the re-opening of the question of State's Rights already alluded to. It was made the basis of Republican argument on the points touched upon for some years to come.

In addition, an instalment of Roane's newspaper articles, signed Hampden, are reprinted. In next year's papers these will be concluded, and with them a fairly complete sketch of his life. Any letters or papers of Chief Justice Roane will be thankfully received.—EDITOR.

INTERESTING CASE.

HUNTER VS. MARTIN.

ON A SPECIAL MANDATE FROM THE SUPREME COURT OF THE
UNITED STATES.

Judge Spencer Roane's Opinion.

This case comes before the Court, upon a special mandate from the Supreme Court of the United States. That mandate recites a judgment of the Supreme Court, which reverses a judgment of this Court, and commands the judges of this Court to carry the reversing judgment into execution. That judgment was rendered upon a writ of error, sued out to the judgment of this Court, under the provision of the twenty-fifth section of the judicial act of the United States¹ upon the ground, as is supposed, that this Court has decided against a treaty, or a right claimed under a treaty. The judgment of

¹U. S. Laws, I., 64.

this Court had reversed a judgment of the District Court of Winchester, rendered in favor of Denny Fairfax, under whom the appellee (Martin), claimed, in an action of ejectment, brought against him by the appellant, and had required the Court below to carry the same into execution. In that action a case was agreed between the two parties, in which the defendant relied upon the treaty of peace between the United States and Great Britain; but that constituted only one link of his defence or title. There are also many other distinct facts or findings, comprised in the case agreed, each of which is, perhaps, also divisible into other facts or findings; and as the judgment of this Court, as appearing on record, is merely *general*, and does not state the particular point on which it was rendered, it may be (as the fact really was, in relation to the judgment of *this* Court), that neither judgment was rendered upon the construction of the treaty.

The question which now arises, upon this mandate, is of the first impression in this Court, and of the greatest moment. The Court, consequently, invited the members of the bar to investigate it, for its information, several of whom, in addition to the appellees' counsel, discussed it, accordingly, in a very full and able manner, since which, it has received the long and deliberate consideration of the Court. This course of the Court, to say nothing of its general character, should have spared the appellee's counsel the trouble of exhorting (not literally, but in effect) this high tribunal to divest itself of all improper prejudice in deciding on this important question. Those counsel were also pleased to warn us of the consequence of a decision, one way, in reference, principally, to the anarchical principles prevalent at the time of the agreement² in a particular section of the Union. They ought to have remembered that this Court did not select the time for bring-

²April, 1814.

ing this case to a decision, and that it is not for it to regard political consequences in rendering its judgments. They should have recollected that there is a Charybdis to be avoided, as well as a Scylla; that a centripetal, as well as a centrifugal principle, exists in the government, and that no calamity would be more to be deplored by the American people than a vortex in the general government, which should engulf and sweep away every vestige of the State Constitutions.

I will consider the case before us under the following general points of view:

I will enquire first, whether the twenty-fifth section of the judicial act, so far as it relates to the case before us, is justified by the Constitution?

2nd. Whether this case comes within the actual provision of that section?

3d. Whether this Court has the power to declare the negative of both or either of these propositions, if its opinion should incline it to do so?

Before I go particularly into these questions, it may be proper to rid the case of the influence of a number of opinions which were quoted by the appellee's counsel. Among many others of minor character, and which, therefore, will not be particularly noticed, they were pleased to quote, very much at large, the opinions contained in the publication styled *The Federalist*, and those delivered by members of Congress at the time of passing the act in question. While I shall never hold myself bound by the opinions of any individuals, further than they appear to be correct, it may be proper to give an answer to the pretensions of such a challenge a superior degree of confidence. Of this character, the two classes of opinions just mentioned, may plausibly be supposed to partake. With respect to the work styled *The Federalist*, while its general ability is not denied, it is liable to the objection of having been a mere newspaper publication, written in the heat and hurry of battle (if I may so express myself), before the Constitution was adopted, and

with a view to ensure its ratification. Its principal reputed author was an active partisan of the Constitution, and a supposed favourer of a consolidated government.³

It is also liable to the objection, that while it contains an ample stock of principles, to bear out every opinion I have formed on this subject, its conclusions in relation to the particular question now before us, go to prove too much. They go to authorize an appeal from the higher State Courts to the *inferior* Federal tribunals.⁴ With respect to the opinions of members of Congress, who passed the judicial act, I had not expected that *they* would have been quoted to prove it constitutional. Their opinion was already manifest in the act itself, and it required the opinion of *others*, at least, to corroborate and support it. The reiterated opinions of the same men joins nothing on this question of constitutionality, whereas the opinions of *others*, however insignificant, might have been of some importance, to show a concurrence of sentiment on the subject. This quotation, however, proves another thing, tending essentially, to wear on the authority of these opinions. It shows that the judicial act, in all its parts, received far less discussion in Congress, at the time it was passed, than the single point now in question has received in this Court. This point was not then considered or discussed in an individual and insulated manner. This was perhaps unavoidable, as the whole government was to be then forthwith organized and time was very pressing. It is not wonderful, therefore, that an act passed under such circumstances should be found to have violated the Constitution in some parts; an instance of which has been detected and admitted by the Supreme Court of the United States itself, in the case of *Marbury v. Madison*.

It was argued by the appellees' counsel that both these classes of opinions were entitled to great weight, as being contemporaneous.

³See Hamilton's Report as Secretary of the Treasury, December 5, 1791.

⁴*Federalist*, II., 326-327.

aneous expositions of the Constitution, by men who had a great agency in forming and putting the same into operation. Whatever weight may be attached to contemporaneous exposition, in other cases, little credit is certainly due to the construction of those who were parties to the conflict, and which were given before the heat of the contest had subsided, or their passions had had time to cool, and as to the advantages supposed to have been gained from their having founded the Constitution, which is expounded, that circumstance is entirely in conflict with a principle deemed vitally important to free government by all enlightened writers, *The Federalist* not excepted.⁵ That the power of working and expounding a law, or constitution, should not be blended in the same hands.

Throwing out of view all these opinions, therefore, except so far as I may think them correct, and use them for the purpose of illustration, and taking for my guide the Constitution, which cannot err, I will examine these important questions. I will also avail myself of such principles as all the enlightened friends of liberty concur in, as essential to preserve the rights and promote the harmony of both governments. As a work containing a just exposition of these principles, I will, occasionally, refer to the celebrated Report to the Virginia Legislature in the year 1799. In addition to other claims to respect, it is to be remarked, that this document contains the *renewed* sense of the people of Virginia in the important subjects to which it relates; a sanction deemed important enough in some States⁶ to operate an amendment to their constitutions, and that it had a principal influence in producing a new era in the American republic.

I. We come now to enquire whether the twenty-fifth section of the judicial act, so far as it relates to the case before us, is justified by the Constitution? And this question again

⁵*Federalist*, II., 1.

⁶Constitution of Maryland.

branches itself into two enquiries—1st. Whether the Constitution gives any power to the Supreme Court of the United States to reverse a judgment of the Supreme Court of a State? And 2nd. If it does, whether it authorizes the limited and partial power of revisal, contemplated by that section? I beg it to be distinctly understood, that I confine my inquiries, *exclusively*, to the actual point now under consideration—namely, one relating to the construction of a treaty. I do not stop to inquire whether a controlling power exists in the Supreme Court, relating to *any other* class of jurisdiction, embraced by the second section of the third article of the Constitution. It *may not* follow that because these are comprehended in the same article with the one before us, they necessarily stand upon the same and no other foundation. It is *possible*, that various considerations, resulting as well from other provisions of the Constitution as from the nature of some of the other classes of jurisdiction, may operate a difference. On these points, however, I have not stopped to form an opinion. I confine my enquiries to the single question now before us.

In order to understand that question correctly, it is proper to recollect that the government of the United States is not a sole and consolidated government. The governments of the several States, in all their parts, remain in full force, except as they are impaired by grant of power to the general government. It is not only true, on general principles, that this may be the case of governments in general, but all the enlightened friends of liberty agree that is, emphatically, the case as to our own confederate government.

As a proof of the first position, it is laid down in Vattel (p. 18), that several sovereign States may unite themselves together by a perpetual confederacy, without each, in particular, ceasing to be a perfect State—that they will then form a Federal republic, and as such will remain independent, but will continue liable to fulfill the engagements into which it has entered. As to our own particular government, this position is not, at this

day, necessary to be proved. It has grown into a maxim. It has run through the general government in all its modifications and changes—from the articles of confederation, in which it is declared that “each State retains its sovereignty, freedom, and independence, and every power, jurisdiction and right, which is not, by this confederation, expressly delegated to the United States in Congress assembled.” To the present Constitution of the United States, which has provided, by the twelfth amendment, that “the powers not delegated to the United States by the Constitution, nor prohibited by it to the States respectively, or to the people,” and even in the short interval between the extinction of the articles of confederation, and the adoption of the amendment last mentioned, the principle embraced by that amendment was esteemed by all parties, as a part of the Constitution itself.⁷

If, after the explicit amendment last mentioned, any doubts could still exist on this subject, they will be dissipated by the most unexceptionable authorities. In the Report of the Virginia Legislature, before mentioned, for example, that body has resolved⁸ that “it views the powers of the Federal Government, as resulting from the compact to which the States are parties, as hinted by the plain sense and intention of the instrument, constituting that compact, and as no further valid than they are authorized by the grants enumerated in that compact.” Again it is resolved that, “if the powers granted be valid, it is because they are granted, and if the granted powers are valid, because granted, all other powers not granted, must not be valid.” It is also further resolved, that “whenever a question arises, concerning the constitutionality of a particular power, the first question is, whether the power be expressed in the Constitution? If it be, the question is decided; if it be not expressed, the next inquiry must be, whether

⁷*Federalist*, II., 202.

⁸See Madison's Report.

it is properly an *incident* to an *express* power, and *necessary* to *its execution*.

So it was unanimously resolved by the Supreme Court of the State of Pennsylvania, in the case of *Commonwealth v. Cobbett*, that before the Constitution of the United States was adopted the several States had absolute and unlimited sovereignty, within their respective boundaries, and all powers, legislation, executive and judicial, except as they had been granted away, by the articles of confederation, and that they now enjoy all those powers, except such as have been granted to the Government of the United States.

It results from this diversity in the two governments that, whereas, in a controversy respecting the constitutionality of a State law, it must be shown to be unconstitutional. A law of the general government must be proved to be constitutional, which can only be by showing that the power to pass it has been granted.

As to the criterion of powers being granted, or not granted, no resort ought to be had to the general and extensive words used in the preamble to the Constitution. It was resolved by the Virginia Legislature in acting upon the report before mentioned, that "it is contrary to every acknowledged rule of construction to set up the preamble, in opposition to the plain meaning expressed in the body of the instrument; that a preamble usually contains the general motives, or reasons, for the particular regulations or measures which follow it, and is always understood to be explained or *limited* by them, and that, in the present instance, a contrary interposition would have the inadmissible effect of rendering nugatory, or improper, every part of the Constitution which succeeds the preamble." It was further resolved, that the general words in the preamble in question, would rather be excluded from having that extensive influence, because they were copied into the present Constitution from the eighth of the articles of the confederation, and in that government, owing to the admitted narrowness of

its powers, no presence existed for saying that they had this extensive effect. Again it was resolved, that this extensive construction would leave the judiciary entirely in the dark as to the limit which bounded the legislative power, and consequently without any adequate means of checking undue extensions thereof, as it must be obvious that all directions, that all measures, tending to promote the general welfare, etc., "must be questions of mere policy and expediency, on which legislative discretion alone can decide, and from which the judicial interposition and control are completely excluded."

These principles and authority equally show that a power ought to be considered as granted, because, in the opinions of the judges expounding the Constitution, it ought to have been granted. This point, as to them, is entirely *coram non judice*.

The people alone are competent to decide it and they have decided every power to be withholden which has not been legitimately granted. Their will is supposed to be in accordance with their expressions, but if this were even otherwise, the answer to the Courts would be, "*quod voluerunt, non dixerunt*."

In deciding whether the jurisdiction given to the Federal Courts by the Constitution is confined to those Courts, or is extensive enough to control that of the State Courts also, in the case of treaties, the first remark which occurs is, that it would be difficult to draw the line under the actual provisions of the Constitution between a *total* and partial interference. The first, as well as the last, depends upon the discretion of Congress, and yet it can hardly be presumed that the Constitution intended that the State authorities on this subject should be wholly invaded and set aside, when, in the sixth article thereof, it recognizes the power of the State Judges over treaties, and provides for their being sworn to observe them.

It is next to be observed that naturally the jurisdiction granted to a government is confined to the Courts of that government. It does not, naturally, run into and affect the

courts of another and distinct government, whether that government operates upon some or another tract of country. In relation to another, and distinct government acting upon another territory, the position is undeniably clear; nor is it less so in the case before us, if the before-mentioned ideas relative to the nature and effect of Federal republics, in general, and ours, in particular, are correct.

If this principle be true, in general it will become so *a fortiori*, if, in all the other parts of the Constitution, on the subject of jurisdiction the Federal Courts are alone contemplated, and if, in all other instances, the Federal authorities act directly upon the people, and not through the medium of those of the States. Both of these positions appear to me to be unquestionably true.

As to the first, it will be seen that the first section of the third article of the Constitution relates, solely and exclusively to the Courts of the United States. It provides for their establishment, for their tenure in office, and their salaries. It has no eye to the State tribunals. So in the last clause of the second section of the third article, providing that the trial of all crimes shall be by jury, and be held *in the State* in which such crime shall have been committed. The Federal Courts are exclusively contemplated. It would have been absurd to have provided that the Courts of a State, which has no jurisdiction beyond its limits, should be held within those limits. This clause then of the very section in question, in this case, being undoubtedly confined to the Federal Courts, it would clearly follow in a case of doubt that the whole section was subject to the same restriction. The same restriction is kept up in the amendment subsequently adopted in the Constitution. In the eighth amendment it is provided that the accused shall have a right to a speedy trial by a jury *of the State* and district in which the crime shall have been committed, a provision wholly superfluous and absurd as relative to the State Courts. So in the ninth amendment, providing that in cases of the value of twenty dollars, the right of jury trial shall be preserved,

it will not be contended that it relates to the jurisdiction of the State Courts, as most of the State Constitutions had already provided for the inviolability of jury trial, and the State governments always claimed and exercised the power to say under what limitations and restrictions the jury trial shall prevail in their Courts. It is also to be borne in mind, that one of the last amendments to the Constitution, which declares that the judicial power of the United States shall not be construed to extend to suits brought against a State by citizens of another State, or of a foreign State, is confined to the Federal Courts in exclusion of those of the States, for, if the State Courts were also inhibited from this jurisdiction, the parties last mentioned would be left without any redress whatever, when aggrieved by a State! If, then, in every other part of the Constitution, which respects jurisdiction, the Federal Courts alone are contemplated, and if, in an important clause of the very section now in question the restrictive construction is found to prevail, it would seem a natural consequence that it should prevail, also, in the remaining part of that section.

If, in addition to these considerations, it be also recollected that the Constitution of the United States in almost no other instance acts through the governments of the several States, the probability will be increased that it did not mean to act through them, or intermeddle with them, in the case in question. The great grievance complained of under the articles of confederation, was that they acted only through the States, which States palsied the arm of the general government at their will and pleasure. To remedy this evil an entirely new system was adopted, by which the general government acted directly upon the people. No instances are at present recollected in which the coöperation of the State governments is necessary, but for the purpose of electing a President and Senators. In all other instances the governments are entirely separate and distinct, and every provision of the Constitution will be construed in reference to this feature of the government.

Bearing these principles in mind, let us proceed to inquire into the meaning of the second section of the third article of the Constitution, so far as it relates to the case before us. That section is in the following words: "The judicial power shall *extend* to all cases in law and equity arising under the Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority, etc." That section of the Constitution follows immediately after another section which speaks only of the judicial power of "*the United States*," and which is thereby declared to be vested in one Supreme Court and such inferior courts as Congress may ordain and establish. When, therefore, the second section speaks of "the judicial power" simply, it means the judicial power of the United States, as contra-distinguished from that of the several States, and as vested in the Supreme Court, and the inferior courts to be by Congress established. It is consistent with every rule of fair construction to transplant the words "of the United States," from the first section into the second, and, thus transplanted, every possible pretence is done away that the clause just recited any more relates to the judicial power of the several States than does the clause immediately preceding it, which is *expressly* confined to the judicial power of "*the United States*." The same inference would result on general principles; for the general words of a constitution are to be applied to its own institution, in exclusion of those of another government. The construction, too, by keeping aloof from the State jurisdictions, will keep up and perfect the symmetry between *this* and every other part of the Constitution, as I have already attempted to show, and be in perfect unison with the principles that each government contemplates, and only contemplates its own judiciary, and that the operations of the general government are in *this*, as in other cases, distinct from those of the States, and are neither dependent on nor intermingled with them.

It is here to be remarked, that the judicial power of the United States is to be determined by the suit or action being proper for the cognizance of their courts, and being actually instituted or brought therein. If brought or instituted in the courts of another government, though they may involve the construction of the Constitution, laws or treaties of the United States, they form a part of the judicial power of that government, and not of that of the United States. On any other hypothesis, the judicial power of the United States would be co-extensive with the limits of the world, on the principle that the *lex loci* prevails everywhere in the case of contracts!

This judicial power is "extended to" all cases, etc. It is here proper to recollect that the government of the Confederation had, also, a court, or courts, but they had only a very narrow or limited jurisdiction, and it was the object of the Constitution to extend the jurisdiction of the Federal Courts, to be then established, beyond that of those which before existed. This word "extend" is fully satisfied, by being confined to the courts of the United States, although the courts of other governments, should also have a jurisdiction over the same subjects. The word, according to the best lexicographers, means to widen or enlarge. It has no sense which goes to the exclusion of another jurisdiction. But for the previously limited jurisdiction of the Federal Courts, and which it was the object of this article to enlarge or "extend" the phraseology would probably have been, that the Courts of the United States shall "*have jurisdiction in*" all cases, etc. Had this form of expression been used, no doubt could possibly have existed, but that the jurisdiction of the Courts of the States would have been left untouched. So if the amplified and varied form of expression before mentioned had been used—namely, that the judicial power "of the United States," which is vested in one Supreme Court, and such inferior Courts as Congress may establish, and which courts shall *have jurisdiction in* all cases in law and equity, etc., no scintilla of doubt could possibly

have remained, but that the clause would have been confined to the jurisdiction of the Federal Courts in exclusion to those of the State Courts.

But it is argued that the power is joined to the Supreme Court to control the judgments of the State Courts under the second clause of the second section of the third article of the Constitution, which says that "in all other cases before mentioned" [two clauses being excepted in which the Supreme Court is declared to have original jurisdiction], "the Supreme Court shall have appellate jurisdiction both as to law and fact, with such exception, and under such regulations as Congress shall make." Having endeavored to show, as above, that the first and third clauses of this section relate exclusively to the jurisdiction of the Federal Courts, and do not extend to that of the State Courts; having, also, endeavored to show that every other part of the original Constitution, and its amendments, is subject to the same restrictions, it would seem to be a reasonable inference that this last and solitary clause should receive a similar construction. The general principle, that a constitution settles the powers and arranges the jurisdiction of its own courts and not those of another government, and although the convention had the power to affect, also, those of the States, this principle will still prevail, unless it clearly and legitimately appears to have been intended to be abandoned. The question then recurs, under the actual provisions of the Constitution, was that instrument (here) settling the jurisdiction of its own courts, or those of a different government?

In order to elude the force of the principle just mentioned it is contended that the courts of the several States are to be considered *quoad* this case, as Courts of the United States. They are said to be, more emphatically, when considered in relation to the Courts of the United States, *parts of one whole*, that is, that they are *quoad* the case before us, a part of the Courts of the United States. They became so under the provisions of

the judicial act, only after they had given an opinion in a certain way; whereas, until they had given such opinion, or event of their giving it the other way, they remained the Courts of the several States! If they are considered as the Courts of the several States, then here is the plain case of the judiciary of our government correcting and reversing the decisions of that of another. If, on the other hand, they are considered as Courts of the United States, they become so by implication, and without having been appointed, commissioned, or paid by the United States and without being impeachable by the United States. If the State Courts can be thus converted into Federal Courts, it is evident, too, that Congress may affect their independence as State Courts, and by throwing on them a mass of Federal jurisdiction, bearing no proportion to the salaries they receive from the States, actually drive them out of office! And whence does this implication arise? From the circumstance of the Courts of the States, having, in the course of their ordinary jurisdiction, incidentally acted upon the Constitution, laws, or treaties of the United States, a circumstance which would equally mark the Supreme Court of Calcutta, a part of the judicial system of the United States, when enforcing the laws of this country in that. But this is not all—it becomes necessary, and by like implication, for the Courts of the States, even for the Supreme Appellate Courts of the States, to spread the facts upon the record, without which the Courts of the United States cannot act upon the subject. This idea, though essential to the exercise of the appellate power, is utterly at war both with the character of the Supreme Court, as such, and with the right of the States to regulate the proceedings of their own courts. It was resolved by the Virginia Legislature, in acting upon the report aforesaid, that the appellate jurisdiction given by the clause in question did not extend to *criminal* cases, depending in even the inferior Federal Courts, notwithstanding the generality of the cases used, because jury trial was secured in such cases by

the Constitution, and was not a subject of appeal. This argument holds much more forcibly, in the case before us, both because the terms used are fairly satisfied by referring them only to the Federal tribunals, and because they cannot reach the Courts of the States, but by passing into another government, sinking the character of the Supreme Courts of the States into mere inferior tribunals, and invading the heretofore exclusive rights of the States to regulate the proceedings of their own Courts. Again, in order to authorize the re-examination of *facts* in the Supreme Court, a course contrary to the general proceedings of appellate Courts, it was found necessary to provide *expressly* for it in the Constitution. Had this not been done, the Court would have been confined to the record, as in other cases. This provision is, by analogy, conclusive to show, that the appeals here intended are only those from the Federal Courts. Had it been intended to trench upon causes abiding in the State Courts, also, the most express and explicit words would have been used to effectuate so unusual and delicate a power. As such words are not used, it is a fair presumption that this was not intended.

But what is the implication by which this effect is to be produced? By which a power is to be taken from the State Governments and vested in that of the Union, and the Courts of the former taken into the service of the latter? There is no iota of expression in the Constitution which either takes it from the States, or gives it to the United States. If it be said that the implication arises from the nature of the power, I answer that that power, when exercised in a State Court is a part of the judicial power of the States, and not of that of the United States, as I have already endeavored to show. What, then, do the gentlemen contend for, but a power neither expressly granted to the general government, nor taken from the States, nor forming a part of the judicial power of the United States. If this mode of deducing power be adequate to the purpose, it was very unnecessary, indeed, for the Constitution, after having,

in the eighth section of the first article thereof, expressly granted to Congress certain important and necessary powers, to go on, in the tenth section, and expressly inhibit them to the States. If in this instance, both a grant of the powers to the United States, and a denial of them to the several States were deemed necessary to carry the powers to the general government, what are we to say of a case in which there is neither such grant, nor such denial, to be found in the instrument? If all this caution was deemed necessary, through a becoming respect for the rights of the States, and a just objection to the implication of power, in regard to powers (those of declaring war and granting letters of marque and reprisal, for example) emphatically belonging to the government of the Union, and no how appertaining to those of the States, is it not much more necessary, in relation to such as are no how essential to the United States and exclusively belong to the several States, as forming a part of their judicial power? If the Convention deemed it necessary to write with a pen of steel in relation to the stronger case just mentioned, is it to be believed they would have conveyed in water-colors the weaker power now in question.

I have thus endeavored to show, by the preceding detail, that none of the clauses of the Constitution before mentioned relate to the State Courts, or to the causes therein depending; that the power now in question has not been expressly granted to the general government, nor inhibited to those of the States; that it exists nowhere but in the general words of the preamble to the Constitution, and is not a necessary incident to any power which has been specifically granted. It is not necessarily incident to the power of the appellate Court of one government to correct the proceedings of the Courts of another, though acting upon the Constitution or laws of the former. I have also endeavored to show that the pretence of a constructive power, arising from the general words of the preamble to the Constitution, is not only fatal to the principle, that the government of the United States is one of limited and

granted powers, and leaves no limit to the discretion of the legislature, but is peculiarly objectionable as relative to the exercise of the powers of the judiciary. It is only, however, under the general terms of the preamble and on the ground of an imagination in Congress and the Federal judges, that the peace of the Union is to be only preserved thereby, that the jurisdiction in question has been assumed. This is not the fact, and, if it were, those authorities ought still to have waited until the power had been constitutionally conferred upon them.

An idea was early taken up by Congress, founded upon the opinion of some Federal writers, that the State judiciaries could not be considered as impartial, in the case of treaties, and would embroil the United States with foreign nations. This disparagement of those authorities finds no counterpart in the Constitution itself. It is true that the sixth article thereof declares that the Constitution, laws and treaties of the United States, shall be the supreme law, and that the judges of the several States shall be bound thereby, anything in their laws or constitutions to the contrary notwithstanding. This article merely declares the supremacy of the Constitution, laws and treaties of the United States over the several States, but evinces no distrust of the State judges. The only circumstance from which the contrary could possibly be inferred, is the oath imposed on them by the said article, but the inference is completely demolished by the considerations that the oath is a general one, to support the Constitution of the United States, and is required to be taken by the Federal as well as the State judges. But if such distrust was anyhow deducible from this clause of the Constitution, the antidote is, also, provided therein. It exists in the oath imposed on them, as aforesaid, to support the Constitution of the United States. This is, in that view, if I may so express myself, the agreed remedy for the evil, and after this, it does not lie in the mouth of any to raise the objection. It is not for Congress to distrust those in whom the

Constitution has confided; to distrust them in the exercise of an ancient and ordinary jurisdiction, and which has not been taken away or impaired by any specific grant in the Constitution. While it is not intended to enter into any comparison of the fitness of the respective judiciaries for that service, it may be asked, however, is it insinuated or expected that the Federal judges will yield to *political* consequences, and adopt themselves in matters of treaty, to the policy of the administration? I hope not, and yet, it is difficult to any other ground on which their monopoly of jurisdiction, on this subject, has been so zealously contended for.

If the power now in question belongs to the State tribunals, when attaching therein, in exclusion of the Courts of the United States, that fact is well known to foreign nations and must be submitted to by them. If it could even be deemed an outrage upon them, they must be content to receive the magnanimous answer, given by the Queen of England to the Russian Emperor—namely, that she was not warranted by the laws of England in doing the arbitrary act which he required. I presume that the British nation, at least, would not quarrel with us for following what has ever been deemed a proud example in her own annals. They would not condemn us for adjudging the decision of the tribunal to be final, which her subjects, with a choice of jurisdiction before them *elected* to resort to, and which (under the actual law of Congress on the subject) is final if found in their favor.

The power now contended for is no such mighty boon in favor of the State judiciaries, as may have been supposed. It is exercised, as I have already marked, by the courts of every civilized nation. On the ground of the contract following the person of the debt, or the laws of the country in which it is originated (including treaties and all), are to be decided on by foreign tribunals. They, indeed, would wish to conform to the constructions of the Courts of the State in which the contract originated, but their decisions, if otherwise, are never-

theless final. Why shall the sovereign States of America sovereign in respect of all powers not clearly and specifically granted to Congress, not possess the rights claimed and exercised by every other State? Why should foreign nations require the head of a confederate government to exercise powers not granted to it by the Constitution and which would embroil it with the members of which the confederacy is composed? Why shall we run this risk and establish these preferences in behalf of the subjects of nations, certainly yielding us no equivalent therefrom, and at most permitting foreigners to stand on the same footing in their courts with themselves.

It is here to be observed, that in most of the suits depending in this country, in which foreigners are parties, they will be plaintiffs and not defendants. They will not be defendants, because in general they remain in their own countries. As plaintiffs, they have elected their jurisdiction, and there is no hardship in their being compelled to abide by it, and even in the few cases in which they may be defendants here, this election is also extended to them by the twelfth section of the judicial act, the constitutionality of which, however, I do not mean to inquire into. In every instance, therefore, in which a State tribunal passes upon the cause of a foreigner, he has made his election of the State judiciary. But if this were even otherwise as to foreign *defendants* in the State Courts, as in most instances foreigners will be *plaintiffs* when suing in this country, the rule of construction forcibly applies that laws are to be expounded in relation to those cases *quoque frequentius accidit*.

I have said that this controlling power was not essential to preserve the peace of the nation. Without going into other considerations or authorities on the subject, it is sufficient to remark that the American people have decided that it is no cause of offense to foreign nations to have their causes decided, and exclusively and finally decided, by the State tribunals. In that amendment to the Constitution, by which the

jurisdiction of the Federal Courts is prohibited, in suits brought against the States by foreign citizens or subjects, this construction is most undoubted and has never been complained of. Since the adoption of that amendment, the election of jurisdiction has been entirely taken away from foreigners in all suits against the States, and those suits can now be only brought in the State Courts in exclusion of every other, and that, too, in cases in which, from the circumstances of the States themselves being parties, it might perhaps be plausibly argued that the judges of the State Courts were not free from bias. I consider that this clear declaration by the American people, and which has never excited a murmur in foreign nations, has put down the notion now in question. It has settled the question forever—that it is no cause of war to foreign nations that the State judiciaries should finally decide the causes elected to be brought therein by their subjects. It has, consequently, overthrown the only foundation on which the whole superstructure of the twenty-fifth section of the judicial act has been supposed to rest.

That pretense is the only one on which the power in question could be attempted to be justified. That of rendering uniform all judgments in the case of treaties is still less tenable, and is even not attained by the actual provisions of the judicial act. Under that act the appeal equally lies to the Supreme Court of the United States, where such uniformity already exists, and is denied where it is wanting. If, for example, the Supreme Court of the United States has decided against a treaty, and the Supreme Court of a State decides the same way, there this uniformity already exists, and yet the appeal is allowed. If, on the other hand, the former Court decides against a treaty and the latter in favor of it, this uniformity is wanting, and yet the appeal is denied!

The preceding remarks apply, *a fortiori*, to the limited and partial power of reversal conferred on the Supreme Court by the twenty-fifth section of the judicial act. It is, indeed, the

natural offspring of the parent from which it has proceeded. The novel spectacle of a judgment being final or not, as it may chance to be one side or the other, and of a Court being of the last resort, or otherwise, as its decision may happen to have been for one or other of the parties, is worthy of a system which only admits the judges to be impartial on one side of a given question! That, however, is a chimera, existing only in the imagination of a former Congress. It was an after-thought, well calculated to aggrandize the general government at the expense of those of the States, to work a consolidation of the confederacy, and can only be presented to be justified by the broad principles of construction, which brought the alien and sedition laws into our Code! I would consign it to a common touch with them as members of the same family and originating in the same era of our government.

It was contended by the appellees' counsel that the power now in question results to the Supreme Court from the concurrent power given to the State Courts over the same subjects. The idea of a concession of power is at war with that of one of the parties possessing a power of reversal and control over the other. It may be further remarked that the concurrent power is not derived to the State Courts from any grant or concession to the Constitution. It results to them on general principles. It is common to them, with the courts of every civilized nation, in respect of civil cases, and no argument based merely on this principle, can erect the Courts of the States into inferior Federal Courts, or give the Courts of the Union a controlling power over them which would not, under like circumstances, have a co-extensive effect over those of every other country.

I have already alluded to another objection to the power granted by the twenty-fifth section of the judicial act, and that is, that it erects the Courts of the Several States in to inferior Courts in a manner not warranted by the Constitution. The inferior Courts contemplated by the Constitution must

not only be "ordained and established" by Congress, but the judges thereof must be appointed by the President and receive an adequate compensation for their services. Nothing of this sort exists in relation to this Court, and yet *quoad* the case before us, this Court is taken into the service of the United States and made one of their inferior Courts. This is proved, both by the reversal and mandate now before us and by the emanation of the writ of error. That writ is defined to be "a commission by which the judges of the superior Court are authorized to examine the record on which a judgment was given in an inferior Court and to affirm, or reverse the same." This Court, therefore, being called upon to execute the duties of a Court, inferior to the Supreme Court of the United States, and yet not being constitutionally established as such, ought not to exercise the same.

II. I am now to inquire, secondly, whether the case before us comes within the provision of the twenty-fifth section of the judicial act.

That section provides, "that a final judgment or decree, in any suit in the higher Court of law or equity of a State, to which a decision in the suit could be had where is drawn in question the validity of a treaty or statute of, or an authority exercised under the United States, and the decision is *against their validity*, or where is drawn in question the validity of a statute of, or an authority exercised under any State, on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision is *in favor of such validity*, or where is drawn in question the construction of any clause of the Constitution or of a treaty, or statute of, or commission held under the United States, and the decision is against the title, right, privilege, or execution, specially set up or claimed by either party under such clause of said Constitution, treaty, statute, or commission, may be re-examined and reversed or affirmed in the Supreme Court of the United States upon a writ of error, the citation being signed, etc." But it is further

provided therein that "*no other error shall be assigned or regarded as a ground of reversal in any such case as aforesaid than such as appears on the face of the record, and immediately respects the before-mentioned questions of validity or construction of the said Constitution, treaties, statutes, commissions, or authorities in dispute.*"

While the first two members of this section are confined to cases in which the validity of a treaty, etc., is decided against or held to be outweighed by the conflicting authorities of the several States, the third member (taken in exclusion of the proviso), would seem by its terms to apply to cases in which the construction of a treaty occurs and the decision is against the title, etc., set up under the same; although the authority and application of the said treaty should be expressly admitted both by the adverse parties and the Court, and the decision should in part be made upon grounds of a mere ordinary nature. But this construction can never be right. It is not justified by even that unwarrantable jealousy of the State Courts which gives rise to the section in question, and would invade, without even a plausible pretext, the jurisdiction of the State Courts upon points of their mere ordinary jurisdiction in all cases, at least, in which a treaty, etc., should come into question, and the decision was on any ground adverse to him who relied upon it. It would give an appeal, although the construction of the treaty, etc., neither came into question, nor was decided against, but was even permitted to operate in the party's favor; who, however, on some other and ordinary ground, was estopped from succeeding in the cause. The construction of the act, however, does not depend merely upon the last member of the section. By the exception, or the proviso therein also contained, no other error is to be assigned or regarded than such as appears on the face of the record, and *immediately respects* the construction of the treaty relied upon. This proviso, or exception, especially when taken in connection with a principle which pervades all appellate Courts—namely, that a party shall not assign for

error that which is beneficial, or not injurious to him, confines the appeal to cases in which, as it appears from the face of the record, the treaty both came in question and was decided against, to the injury of him who relied on it. In other words, the exception of the clause restricts the preceding words of it, which *might* have otherwise been considered more extensive, and produces symmetry between all the members of the section.

This view of the subject would produce a correspondent right to the party grieved by the construction of the Court below to make the point of the decision upon the treaty a part of the record, that is, of the judgment as well to give jurisdiction to the appellate Court as to afford a foundation on which the errors permitted by the act to be assigned are to be erected. But to suppose that a Court having only jurisdiction in a single case is not to show that that case has actually occurred, would be as novel in the history of judiciary proceedings as it might be fatal to the ordinary grounds of jurisdiction of the several States; ground, on no pretense, requiring the corrective power now contended for and as to which the State Courts possess the undoubted privilege even to err without remedy.

In the case before us, while it is admitted that the appellant was a British alien and set up the treaty of peace as a ground of defense against appellee's claim, it was far from being the *only* ground of that defense, or on which, only, the decision of this Court, or that of the district Court could have turned. The case agreed in the cause consists of fourteen different findings, most of which are of a mere ordinary character. For example, as this suit respected land lying in the territory granted by the English Crown to Lord Fairfax, and also granted to the appellant by this Commonwealth since his death, one of those findings drew in question the point (possibly never before solemnly settled by this Court), whether Lord Fairfax had an allodial or only a mere seigniorial right to the land. Under the last idea of his title, a judgment in favor of the appellee ought not.

perhaps, to have been rendered, although in other respects the treaty should have been in his favor. That would have been a mere ordinary ground of jurisdiction, no how within the meaning or purview of the twenty-fifth section, and many other points of the same character may be found to exist in the case agreed. Whatever the fact may have been, the most the Supreme Court of the United States is permitted to know is to be collected from this Court's judgment of reversal, and that judgment is *general* and only takes the ground that the law on the case agreed is, on some points, in favor of the appellant. It may well have been for aught appearing of record to the contrary, that the judgment was rendered upon the before-mentioned question respecting the nature of Lord Fairfax's title, or on some of the other ordinary grounds of inquiry submitted by the case agreed; or it may be taken to have been rendered (as the fact really was), upon the act of the compromise of 1795, which, although it was posterior to, and formed no part of the case agreed, was considered by the Court as a letter addressed to them by the appellee, authorizing it to render the judgment pursuant to the provisions of that act. But if, in trust, the judgment of this Court *was* rendered upon the construction of the treaty it is the appellee's misfortune that he did not manifest it to the appellate Court by spreading it upon the record.

Thus stands the case upon the record, by which alone the Supreme Court of the United States should have been governed in assuming a jurisdiction in the case. But if that Court had held itself at liberty to go out of the record and resort to those reports which are deemed authentic evidence of the decisions therein contained, its jurisdiction in this case would have been cut up by the roots altogether. The report of the case would have shown that if the treaty of peace was at all decided on by the district Court (Winchester), its decision was, in effect, affirmed as to that point by the equal suffrages of the judges of this Court upon it. That report does not merely omit to

state, as the record does, whether the treaty was decided upon or not by this Court, and how; it goes further and shows that the actual decision of this Court was rendered upon another and ordinary ground of jurisdiction—the act of compromise aforesaid—such a ground as no error can be assigned, or under the proviso of the judicial act, as aforesaid, and as must forever bar the Supreme Court of the United States from acting upon the case, unless we go beyond the actual provision of the section in question, let in the power of that Court upon grounds of a more ordinary nature or admit that to be a ground of error which may have been decided in the party's favor! I conclude, therefore, that it does not appear from this record that the Supreme Court of the United States had jurisdiction in the case before us, under the true construction of the act in question, and that it appears, on the contrary, by authentic evidence, *aliunde*, that they had no such jurisdiction. I cannot consent, therefore, to waive the exercise of the just and constitutional powers of this Court and to register and enforce the judgment before us, even admitting the section in question to be constitutional, until I am prepared to admit that the Supreme Court of the United States has a right to review and reverse the judgments of this Court in all cases whatsoever, or at least in all in which a treaty, etc., may be either really or *colorably* relied on as *one* of the grounds of defense, or claim, although the same was either not decided upon at all, or the decision was in the parties' favor.

III. I come now to inquire, in the third place, whether this Court has a right to declare its own opinions on both or either of the questions before-mentioned if opposed to the decisions of the Supreme Court of the United States? That depends upon the question first discussed; whether an appeal lies from this Court to that, or in other words, whether this Court be subordinate to that in relation to the present subject? If it is not, however respectable that Court may be, its decisions are not binding upon this tribunal.

In making a decision on this subject this Court does not so much decide what are the rights and powers of the Federal Court, as what are its own. There is no position more clear than that, even in the *same* government, a Court may be paramount, as to some powers, while it is subordinate as to others. The general Court of this Commonwealth, for example, is the Supreme Court as to all criminal cases, though its jurisdiction is inferior to that of this Court as to those which are civil. No person will deny that, in relation to criminal causes, it would adjudge itself to be the Court of last resort, and would resist the encroachment of this Court upon it. It would resist, and would most properly resist, an edict of this Court condemning a citizen to suffer death whom that Court had adjudged to be innocent. Every argument applying to justify the decision of the general Court in such a case would hold more forcibly in the case before us. If such resistance can be made by a Court which is, in most instances, an inferior Court, much more can it by one which is in no instance subordinate. If it can be made by a Court which is, in truth, a part of "one whole," much more can it by one which is not. If it can be made by a Court of the *same* government with much propriety, can it by that of a different one?

The counsel for the appellee have furnished us with a string of cases, in which the jurisdiction in question has been entertained by the Supreme Court of the United States. They have had it in their power to do this, because the cases occurred in that Court and not in this. The portrait is exhibited *as it is*, because the man and not the lion was the painter. It is not to be denied that the jurisdiction now in question has been entertained by the Supreme Court in sundry instances, but that jurisdiction has gained by a piece-meal and has never received the solemn and deliberate discussion and decision of that tribunal. It has been adopted, also, under a latitude of construction and discretion in the Court which is at war with the idea of limited and specified powers in general government.

That decision was coeval, as I have already said, with sundry acts of the National Legislature passed upon the same principle, but while those acts have been scouted and repealed by general consent, under a more correct view of the Constitution, the decision has been suffered to remain and to be acted on as a precedent!

I have already said, with the Virginia Legislature, that the powers of the Federal government result from the compact to which the *States* are parties; are no farther valid than as they are authorized by the grants enumerated in the compact, and, I will now add, by the same authority, "that in case of a deliberate, palpable and dangerous exercise of powers, not granted by the said compact, the States, who are parties thereto, have the right, and are duly bound to arrest the progress of the evil."⁹ While the States in their legislative, or even original character, are authorized to interfere in cases of the palpable nature just mentioned, the Courts of the State are also authorized to check the evil when it occurs in the exercise of their ordinary jurisdiction. Thus in the before-mentioned case of the *Commonwealth v. Cobbett*, the Supreme Court of the State of Pennsylvannia solemnly and unanimously refused to permit the defendant, who was an alien, to remove a cause in which he was sued by the State in its Supreme Court, into the Circuit Court of the United States, notwithstanding the comprehensiveness of the words of the twelfth section of the judicial act upon this subject. That Court, after declaring in most explicit terms that all powers not granted to the Government of the United States remained with the several States; that the Federal government was a league, or treaty, made by the individual States as one party, and all the States as another. That when two nations differ about the construction of a league, or treaty, existing between them, neither has the right to decide it, and that, if one of the

⁹Madison's Report, 4.

States should differ with the United States as to the extent of the grant made to them, there is no common umpire between them; but the people, by an amendment to the Constitution, went on to declare its own opinion on the subject and overruled the motion on the ground that the sovereign State of Pennsylvania could not on account of its dignity be carried before that Court.

One of the appellee's counsel was pleased to call this decision, a *dictum* of Chief Justice McKean's. I must be excused for saying it is no *dictum*, nor is it the sole and individual opinion of that respectable judge. It is the solemn and unanimous decision and resolution of the Supreme Court of one of the most respectable States in the Union. It contains no principle which every friend to the federative system of government will not readily subscribe to; it exhibits no sentiment alarming to any but the friends of consolidation.

It has been said that this decision of the Supreme Court of Pennsylvania is a single and solitary one. The question has, *perhaps*, seldom occurred in the State tribunals. As, however, error does not become truth by being often repeated, neither does truth lose any of its beauty by being seldom promulgated. Again it has been said that the jurisdiction of the Supreme Court has been acquiesced in by some of the States. It has never been before asserted in the Courts of this Commonwealth, nor acquiesced in by them. As to the acquiescence of other States, I deem it unnecessary to go into any inquiry on the subject. While such acquiescence, if it has existed, may be accounted for on so many grounds other than that of an acknowledgment of the Federal claim, it is sufficient for us to say that those decisions are not binding upon us. Other States may abandon their own rights under the Federal compact, but have no power to cede or relinquish ours. I consider this decision by the Supreme Court of Pennsylvania as a complete and solemn authority to show that in case of a difference of opinion between the governments as to the extent of the powers vested by the

Constitution, while neither party is competent to bind the other, the courts of each have power to act upon the subject.

So in the case of *Rose v. Hinely*,¹⁰ it was resolved by the Supreme Court of the United States itself that a sentence rendered by a self-constituted body, or by a body not empowered by its government to take cognizance of the subject, could have no legal effect whatever; that the power under which it acts be looked into, and its authority to decide the questions which it professes to decide must be considered, and that the operation of every judgment must depend upon the power of the Court to render the judgment, or, in other words, on its jurisdiction over the subject matter which it has determined. These authorities are conclusive to justify the Court in pursuing its own opinions on this subject, and I can perceive no arguments justifying the authority of the decisions of the Supreme Court of the United States in relation to this case, which would not equally sustain its judgments rendered upon the construction of our act of descents; for example, should that Court ever so far forget its own limited powers as to intrench on that province also.

Upon the whole, I am of opinion that the Constitution confers no power upon the Supreme Court of the United States to meddle with the judgment of this Court in the case before us; that this case does not come within the actual provisions of the twenty-fifth section of the judicial act, and that this Court is both at liberty and is bound to follow its own convictions on the subject—anything in the decisions, or supposed decisions, of any other Court to the contrary notwithstanding.

My conclusion, consequently, is that everything done in this cause, subsequently to the judgment of reversal by this Court, was *coram non judice*, unconstitutional and void, and should be entirely disregarded by this Court; that the writ of error in this case was improvidently allowed, and that the judgment

¹⁰Cranch 4, 241.

of reversal by the Court should be now certified to the superior Court which has succeeded to the District Court of Winchester, in its powers, for the purpose of being carried into complete execution.

Richmond Enquirer, February 1, 1816.

RIGHTS OF THE STATES AND OF THE PEOPLE—No. 1.^o

To the Editor of the Enquirer:—

By means of a letter to you, sir, I beg leave to address my fellow citizens. I address them on a momentous subject. I address them with diffidence, and with respect; with the respect which is due the most favored, if not the most respectable section of the human race: and with the diffidence which I ought to feel, when I compare the smallness of my means with the greatness of my undertaking. I address my fellow citizens without any distinction of parties. Although some of them will, doubtless, lend a more willing ear than others, to the important truths

“Ritchie commended the articles to his readers in the following significant language: “Hear him for his cause.” We ask the attention of our readers to the series of numbers which appear in succession, under the venerable name of *Hampden*. The subject is one which is entitled to the liveliest interest; and the pen of the writer is equal to the subject, great as it is, which he has undertaken to discuss. The supreme court of the United States is a tribunal of great and commanding authority, whose decisions, if not received as “the law and the prophets,” are always entitled to the deepest attention. To the presiding justice of that court, we are always ready to pay that tribute, which his great abilities deserve, but no tribunal, however high, no abilities, however splendid, ought to canonize the opinions which are advanced. We solemnly believe the opinion of the Supreme Court in the case of the bank to be fraught with alarming consequences: the federal Constitution to be misinterpreted, and the rights of the States and the people to be threatened with danger. We solemnly believe that Hampden has refuted the opinion of the Supreme Court, and placed it in its proper light before the public. We wish the people to hear him,—“hear him for his cause.”

It adds to the political importance of these papers to know that Jefferson commended them most heartily.—Ed.

I shall endeavor to articulate, none can hear them with indifference. None of them can be prepared to give a *carte blanche* to our federal rulers, and to obliterate the State governments, forever, from our political system.

It has been the happiness of the American people to be connected together in a confederate republic: to be united by a system, which extends the sphere of popular government, and reconciles the advantages of monarchy with those of a republic: a system which combines all the internal advantages of the latter, with all the force of the former. It has been our happiness to believe, that in the partition of powers between the general and State governments, the former possessed only such as were expressly granted, or passed therewith as necessary incidents, while all the residuary powers were reserved by the latter. It was deemed by the enlightened founders of the Constitution, as essential to the internal happiness and welfare of their constituents, to reserve some powers to the State governments. As to their external safety, to grant others to the government of the union. This, it is believed, was done by the Constitution, in its original shape; but such were the natural fears and jealousies of our citizens, in relation to this all-important subject, that it was deemed necessary to quiet those fears by the tenth amendment to the Constitution. It is not easy to devise stronger terms to effect that object than those used in that amendment.

Such, however, is the proneness of all men to extend and abuse their power,—to “feel power and forget right,”—that even this article has afforded us no security. That legislative power which is everywhere extending the sphere of its activity and drawing all power into its impetuous vortex, has blinked even the strong words of this amendment. That judicial power, which according to Montesquien is, “in some measure, next to nothing”; and whose province this great writer limits to “punishing criminals and determining the disputes which arise between individuals”; that judiciary which, in Rome according to the same author, was not entrusted to decide questions which

concerned "the interests of the State, in the relation which it bears to its citizens"; and which, in England, has only invaded the constitution in the worst of times, and then, always, on the side of arbitrary power, has also deemed its interference necessary, in our country. It will readily be perceived that I allude to the decision of the supreme court of the United States, in the case of M'Culloh against the State of Maryland.

The warfare carried on by the legislature of the Union, against the rights of "the States" and of "the people" has been with various success and always by detachment. *They* have not dared to break down the barriers of the Constitution, by a *general* act declaratory of their power. That measure was too bold for these ephemeral deputies of the people. That people hold them in check by a short rein, and would consign them to merited infamy, at the next election They have adopted a safer course. *Crescit Eundo* is their maxim; and they have succeeded in seeing the Constitution expounded, not by what it actually contains, but by the *abuses* committed under it. A new mode of amending the Constitution has been added to the ample ones provided in that instrument, and the strongest checks established in it have been made to yield to the force of precedents! The time will soon arrive, if it is not already at hand, when the Constitution may be expounded without ever looking into it!—by merely reading the acts of a renegado Congress, or adopting the outrageous doctrines of Pickering, Lloyd or Sheffey!

The warfare waged by the judicial body has been of a bolder tone and character. It was not enough for them to sanction, in former times, the detestable doctrines of Pickering & Co., as aforesaid: it was not enough for them to annihilate the freedom of the press, by incarcerating all those who dare, with a manly freedom, to canvass the conduct of their public agents: it was not enough for the predecessors of the present judges to preach political sermons from the bench of justice and bolster up the most unconstitutional measures of the most abandoned

of our rulers: it did not suffice to do the business in detail, and ratify, one by one, the legislative infractions of the Constitution. That process would have been too slow, and perhaps too troublesome. It was possible, also, that some *Hampden* might make a stand against some ship-money measure of the government, and although he would lose his cause with the court, might ultimately gain it with the *people*. They resolved, therefore, to put down all discussions of the kind, in future, by a judicial *coup de main*: to give a *general* letter of attorney to the future legislators of the Union; and to tread under foot all those parts and articles of the Constitution which had been, heretofore, deemed to set limits to the power of the federal legislature. That man must be a deplorable idiot who does not see that there is no earthly difference between an *unlimited* grant of power and a grant limited in its terms, but accompanied with *unlimited* means of carrying it into execution.

The Supreme Court of the United States have not only granted this *general* power of attorney to Congress, but they have gone out of the record to do it, in the case in question. It was only necessary, in that case, to decide whether or not the bank law was "necessary and proper," within the meaning of the Constitution, for carrying into effect some of the granted powers; but the court have, in effect, expunged those words from the Constitution. There is no essential difference between expunging words from an instrument, by erasure, and reading them in a sense entirely arbitrary with the reader, and which they do not naturally bear. Great as is the confidence of the nation in all its tribunals, they are not at liberty to change the meaning of our language. I might therefore justly contend that this opinion of the court, in so far as it outgoes the actual case depending before it, and so far as it established a *general* and *abstract* doctrine, was entirely extrajudicial and without authority. I shall not, however, press this point, as it is entirely merged in another, which I believe will be found conclusive,—namely, that that court had no power to adjudicate

away the *reserved* rights of a sovereign member of the confederacy, and vest them in the general government.

It results from these remarks, Mr. Editor, that my opinion is, that the Supreme Court had no jurisdiction justifying the judgment which it gave, and that it decided the question wrongly. The power of the Supreme Court is indeed great, but it does not extend to everything; it is not great enough to *change* the Constitution. . . . These points I shall endeavor to maintain in one or more subsequent numbers. I shall also briefly touch upon the bank law of the United States. That law is neither justified by the Constitution, nor ratified by any acquiescence.

Had this opinion of the Supreme Court, however, not been pronounced, I should not have deemed it necessary to address the public on the subject. I should not have been moved by any *particular* measure of aggression. I know full well that however guarded our Constitution may be, we must submit to particular infractions of it. I know that our forefathers, of glorious and revolutionary memory, submitted to many particular acts of oppression, inflicted upon them by the British parliament. I know that "all experience hath shown that mankind are more disposed to suffer while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed"; and I know that it was only the *general* declaration by the British parliament of their right "to legislate for us in all cases whatsoever," that combined the American people, as one man, against the oppressions of the British tyrant.

Such a declaration is now at hand. It exists, in the opinion of the Supreme Court. If the limits imposed on the general government, by the Constitution, are stricken off, they have, *literally*, the power to legislate for us "in all cases whatsoever": and then we may bid a last adieu to the State governments.

In discussing these momentous questions, I shall not hesitate to speak with the spirit of a freeman. I shall not be overawed by the parasites of a government gigantic in itself, and

inflated with recent victories. I love the honor, and, if you please, the glory of my country, but I love its liberty better. Truth and liberty are dearer to me than Plato or Socrates. I speak only of the measures of our public functionaries, but of them I shall speak freely. I am not a political surgeon: but this I know, that a wound which threatens to be mortal must be probed to the bottom. The crisis is one which portends destruction to the liberties of the American people.

I address you, Mr. Editor, on this great subject with no sanguine presages of success. I must say to my fellow citizens that they are sunk in apathy, and that a torpor has fallen upon them. Instead of that noble and magnanimous spirit which achieved our independence, and has often preserved us since, we are sodden in the *luxuries* of banking. A money-loving, funding, stock-jobbing spirit has taken foothold among us. We are almost prepared to sell our liberties for "a mess of pottage." If Mason or Henry could lift their patriot heads from the grave, while they mourned the complete fulfillment of their prophecies! they would almost exclaim with Jugurtha, "Venal people! you will soon perish, if you can find a purchaser."

In examining this great subject, I shall only resort to authorities the most unquestionable. I shall *chiefly* test my doctrines by those of the enlightened *advocates* of the Constitution, at the time of its adoption. I shall also resort to a book, written, at least in part, by one of the highest-toned statesmen in America. That book is "The Federalist," and the writer alluded to is Mr. Hamilton. The authors of that book have been eulogised by the Chief Justice, in his "Life of Washington," for their talents and love of union; and by the supreme court, in the opinion before us. The court has even gone so far as to say that as to the opinions contained in that book, "no tribute can be paid to their *worth*, which exceeds their *merit*." If I have any adversaries in this discussion, these *advocates* and this book are *their* witnesses, and I shall take leave to cross-examine them. That witness is the best for the defendant, who is produced on

the part of the plaintiff: and he is most to be believed who is both lauded by the court and testifies against his interest or his prejudices. I shall also use, occasionally, the celebrated report of the legislature of Virginia, in the year 1799. It has often been called by an eloquent statesman his political Bible. For truth, perspicuity and moderation, it has never been surpassed. It is entirely federal. It was the *Magna Charta* on which the republicans settled down, after the great struggle in the year 1799. Its principles have only *been departed* from since by turn-coats and apostates. The principles of this report equally consult the rights and happiness of the several States, and the safety and independence of the Union.

I shall commence, in the next number, *some* examination of the opinion of the Supreme Court. It is in every respect entitled to the chief notice. I have great reason to distrust myself in this undertaking. I am provided with a sling and a stone, but I fear the inspiration will be wanting. I consider that opinion as the "*Alpha and Omega*, the beginning and the *end*, the first and the *last*, of federal usurpations."

HAMPDEN.

RIGHTS OF THE STATES AND OF THE PEOPLE—No. 2.

"The grievancies by which we are oppressed, I draw under two heads; acts of power against law, and the judgments of lawyers against liberty."

To the Editor of the Enquirer:

According to the regular course of legal proceedings I ought, in the first place, to urge my plea in abatement to the jurisdiction of the court. As, however, we are not now in a court of justice and such a course might imply some want of confidence in the merits of my cause, I will postpone that enquiry, for the present, and proceed directly to the merits. In investigating those merits, I shall sometimes discuss particular points stated

by the Supreme Court, and, at others, urge propositions inconsistent with them. I pledge myself to object to nothing in the opinion in question, which does not appear to me to be materially subject to error.

I beg leave to lay down the following propositions, as being equally incontestable in themselves, and assented to by the enlightened *advocates* of the Constitution, at the time of its adoption.

1. That that Constitution conveyed only a limited grant of powers to the general government, and reserved the residuary powers to the governments of the States, and to the people: and that the tenth amendment was merely declaratory of this principle, and inserted only to quiet what the court is pleased to call "the excessive jealousies of the people."

2. That the limited grant to Congress of certain enumerated powers only carried with it such additional powers as were *fairly incidental* to them, or, in other words, were necessary and proper for their execution.

And 3. That the insertion of the words "necessary and proper," in the last part of the eighth section of the first article, did not enlarge the powers previously given, but were inserted only through abundant caution.

On the first point it is to be remarked that the Constitution does not give to Congress *general* legislative powers, but the legislative powers "*herein granted.*" . . . 1st Art. of Const. . . . So it is said in "The Federalist," that the jurisdiction of the general government extends to certain enumerated objects only and leaves to the States a residuary and inviolable sovereignty over all other objects: that in the *new* as well as the old government, the general powers are limited, and the States, in all the unenumerated cases, are left in the enjoyment of their sovereign and independent jurisdiction: that the powers given to the general government are few and defined: and that all authorities of which the States are not *explicitly* divested, in favor of the Union, remain with them in full force; as is

admitted by the affirmative grants to the general government, and the prohibitions of some powers, by negative clauses to the State governments.

It was said by Mr. Madison, in the convention of Virginia that the powers of the general government were enumerated and that its legislative powers are on defined objects, beyond which it cannot extend its jurisdiction: that the general government has no power but what is given and delegated, and that the delegation alone warranted the power: and that the powers of the general government are but *few*, and relate to external objects, whereas those of the States relate to those great objects which immediately concern the prosperity of the people. It was said by Mr. Marshall that Congress cannot go beyond the delegated powers, and that a law not warranted by any of the enumerated powers would be void: and that the powers not given to Congress were *retained* by the States, and *that* without the aid of implication. Mr. Randolph said that every power not given by this system is left with the States. And it was said by Mr. Geo. Nicholas that the people retain the powers not conferred on the general government, and that Congress cannot meddle with a power not enumerated.

It was resolved in the legislature of Virginia, in acting upon the celebrated report of 1799 (of which Mr. Madison, the great patron of the Constitution, was the author), that the powers vested in the general government result from the *compact*, to which the *States* are the parties; that they are limited by the plain sense of that instrument (the Constitution) and extend no further than they are authorized by the grant; that the Constitution had been constantly discussed and justified by *its friends*, on the ground that the powers not given to the government were withheld from it; and that if any doubts could have existed on the original text of the Constitution, they are removed by the tenth amendment; that if the powers granted be valid, it is only because they are *granted*, and that all others are retained; that both from the original Constitu-

tion and the tenth amendment, it results that it is incumbent on the general government to *prove*, from the Constitution, that it grants the *particular* powers: that it is *immaterial* whether unlimited powers be exercised under the name of unlimited powers, or under that of unlimited means of carrying a limited power into execution; that in all the discussions and ratifications of the Constitution, it was urged as a characteristic of the government, that powers not given were retained, and that none were given but those which were *expressly* granted, or were fairly incident to them; and that in the ratification of the Constitution by Virginia, it was expressly asserted that every power *not granted* by the Constitution remained with them (the people of Virginia), and *at their will*.

2. I am to show in the second place that by the provisions of the Constitution (taken in exclusion of the words "necessary and proper" in the 8th of the 1st article) such powers were only conveyed to the general government as were expressly granted or were (to use the language of the report), fairly incident to them. I shall afterwards show that the insertion of those words, in that article, made no difference whatever and created no extension of the powers previously granted.

I take it to be a clear principle of universal law—of the law of nature, of nations, of war, of reason and of the common law—that the general grant of a thing or power, carries with it all those means (and those only) which are necessary to the perfection of the grant, or the execution of the power. All those entirely concur in this respect, and are bestowed upon a clear principle. That principle is one which, while it completely effects the object of the grant or power, is a safe one, as it relates to the reserved rights of the other party. This is the true principle, and it is an universal one, applying to *all* pacts and conventions, high or low, or of which nature or kind soever. It cannot be stretched or extended even in relation to the American government; although, for purposes which can easily be conjectured, the Supreme Court has used

high sounding words as to it. They have stated it to be a government extending from St. Croix to the Gulf of Mexico, and from the Atlantic to the Pacific Ocean. This principle depends on a basis which applies to all cases whatsoever, and is inflexible and universal.

If, in relation to the powers of the general government, the express grants, aided by this principle under its true limitation, do not confer on that government powers sufficiently ample, let those powers be extended by an amendment to the Constitution. Let us now do what our convention did in 1787, in relation to the articles of confederation. Let us extend their powers, but let this be the act of the *people*, and not that of subordinate agents. But let us see how far the amendments *are* to extend, and not, by opening wide the door of implied or constructive powers, grant we know not how much, nor enter into a field of interminable limits. Let us, in the language of the venerable Clinton, extend the powers of the general government, if it be necessary; but until they are extended, let us only exercise such powers as are clear and undoubted.

In making some quotations from the laws of nature, of nations, of war, of reason, and the common law, it will be seen that these establish not only the principle I contend for, but the limits under which the incidental powers are to be exercised. It is in this last relation that I ask the principal attention of the reader. While these limits must always, in a degree, depend upon the circumstances of every particular case, the cases I shall give the general character of the power. It will be seen that that power is always limited by necessity; which, although it may not be, in all cases, a sheer necessity, falls far short of the extensive range claimed, in this instance, by the Supreme Court. I need not say to the legal part of our citizens, that the exception proves the rule; nor that the allowance of a power *up* to a given limit, is a denial of it beyond it.

We are told by Vattel that "since a nation is obliged to preserve itself, it has a right to every thing *necessary* for its preservation, for that the *law of nature* gives us a right to everything WITHOUT WHICH we could not fulfil an obligation: otherwise it would oblige us to do *impossibilities*, or rather contradict itself, in prescribing a duty and prohibiting, at the same time, the *only means* of fulfilling it." Again he tells us that a nation has a right to everything *without which* it cannot obtain the perfection of the members, and the State. Again we are told, by him, that a tacit faith may be given by a prince, etc. And that "everything *without which* what is agreed upon, cannot take place," is tacitly granted,—as, if a promise is made to an army of the enemy, which has advanced far into the country "that it shall return home in safety," provisions are also granted, for they cannot return *without them*. . . . We are further told that in granting or accepting an interview *full security* is also tacitly granted. The *provisions* and the *security* are each of them a *sine quo non* of the fulfillment of the grant, or promise: they are both *indispensible*. So he tells us that if a man grants to one his house and to another his garden, the only entrance into which is through the house, the right of going through the house passes as an incident, for that it is absurd to give a garden to a man, into which he could not enter. We are further told by this writer that the grant of a passage for troops includes everything connected with the passage, and *without which* it would not be practicable as exercising military discipline, buying provisions, etc.: that he who promises security to another by a safe conduct, is not only to forbear violating it himself, but also to *punish* those who do and compel them to make reparation: that a safe conduct naturally includes the baggage of the party, and everything *necessary* for the journey, but that the *safest* and *modern* way is, to *particularize* even the baggage: and that a permission to *settle* anywhere includes the wife and children, for that when a man settles anywhere he carries his wife and

children with him, but that the case is different as to a safe conduct, for that when a man travels his family is usually left at home.

These examples quoted from the laws of nature, of nations, and of war, have a remarkable and entire coincidence with the principles of the common law, and show that great principles extend themselves alike into every code. In all of them the incidental power is limited to what is *necessary*: and in none of them is a latitude allowed, as extensive as that claimed by the Supreme Court.

The principle of the common law is, that when any one grants a thing he grants also that *without which* the grant cannot have its effect; as, if I grant you my trees in a wood, you may come with carts over my land to carry the wood off. So a right of way arises on the same principle of necessity, by operation of law; as, if a man grants me a piece of land in the middle of his field he tacitly and implicitly gives me a right to come on it. We are again told that when the law giveth anything to any one, it implicitly giveth whatever is necessary for taking or enjoying the same: it giveth "what is *convenient*, *viz.* entry, egress and regress as much as is *necessary*." The term "convenient" is here used in a sense convertible with the term "necessary" and is not allowed the latitude of meaning given to it by the Supreme Court. It is so restricted in tenderness to the rights of the other party. The rights of way passing in the case above mentioned, is also that, merely, of a *private* way, and does not give a high road or avenue through another's land, though such might be most *convenient* to the purposes of the grantee. It is also a principle of the common law that the incident is to be taken according to "a *reasonable* and *easy* sense," and not strained to comprehend things remote, "unlikely or unusual." The connection between the grant and the incident must be easy and clear: the grant does not carry with it as incidents, things which are remote or doubtful.

These quotations from the common law are conclusive in favor of a restricted construction of the incidental powers. They show that nothing is granted but what is *necessary*. They exclude everything that is only *remotely* necessary, or which only *tends* to the fulfillment.

These doctrines of the common law control the present case. But it is immaterial, as I have already said, by what code it is to be tested. On this point there is no difference between them; for they all depend upon an inflexible and immutable principle. The common law, however, governs this case. That law is often resorted to, of necessity, in expounding the Constitution. . . . Many of the powers given by the Constitution, are given in terms only known in the common law. The authority of that law is universally admitted to a certain extent in expounding the Constitution. It is admitted both by the report of 1799, and by the Virginia Legislature of the same year, in relation to such parts thereof as have a sanction from the Constitution by the technical phrases used therein, expressing the powers given to the general government, and also as to such parts thereof as may be adopted by Congress, as necessary and proper for carrying into execution the powers expressly delegated.¹⁰ Is not this admission full up to the very point of referring to that law in this case, and adopting the standard which it has established?

That law not only affords this standard, but it was wise in the Constitution to refer to a standard which is equally familiar to all the states, and is corroborated by the corresponding principles of every other code. By the common law the term *incident* is also well defined, as the examples I have quoted will show. It is the part of wisdom to define the terms as you go, or at least to refer to a standard which contains their definition. I have another preference for this code, and for the term "incident," which it uses, and that is that that term is

¹⁰Madison's Report, 67; see instructions to the senators of Virginia, Jan. 11, 1800.

particular. The term "means" started up on the first occasion, is not only undefined, but is *general*: and "*dolus latet in generalibus*" (guile covers itself under general expressions). Why should the Supreme Court trump up a term on this occasion, which is equally novel, undefined and *general*. Why should they select a term which is broad enough to demolish the limits prescribed by the general government, by the Constitution? I will now proceed to show that the terms "necessary" and "*incidental*" powers were those uniformly used at the outset of the Constitution, while the term "means" is entirely of modern origin. It is at least so, when offered as a substitute for the terms "incident" or "incidental powers."

We are told in "The Federalist"¹¹ that all "powers *indispensably necessary* are granted by the Constitution, though they be not expressly"; and that all the particular powers *requisite* to carry the enumerated ones into effect, would have resulted to the government by unavoidable implications, *without* the words "necessary and proper"; and that when a power is given, every particular power *necessary* for doing it is included. Again it is said that a power is nothing but the ability or faculty of doing a thing, and that that ability includes the means *necessary* for its execution.

It is laid down in the report before mentioned that Congress under the terms "necessary and proper" have only all incidental powers necessary and proper, etc., and that the only enquiry is whether the power is properly an *incident* to an express power and *necessary* to its execution, and that if it is not, Congress cannot exercise it: and that this Constitution provided during all the discussions and ratifications of the Constitution, and is *absolutely necessary* to *consist* with the idea of defined or particular powers: again it is said, that none but the express powers and those *fairly incident* to them were granted by the Constitution.¹²

¹¹Vol. I, 256.

¹²Madison's Report, 75, 76, 83.

The terms "incident" and "incidental powers" are not only the terms used in the early stages and by the *friends* of the Constitution, but they are the terms used by the *court* itself, in more passages than one, in relation to the power in question. The same terms are used by the Chief Justice in his "Life of Washington,"¹³ as relative to the implied powers. So it is said by Mr. Clinton, in his rejection of the bank bill before mentioned, that the means must be *accessorial* and *subordinate* to the end. Mr. Clay also said on the same occasion that the implied powers must be *accessorial* and *obviously flow* from the enumerated ones. Having shown the universal adoption of these terms, we will now recur to their real meaning. In Co. Litt. 151 b. (Coke on Littleton) an incident is defined, in the common law, to be a thing "appertaining to or *following* another as more worthy or *principal*." So Johnson defines it to be "means following in beside the *main* design." Can it be then said that means which are of an independent or *paramount* character can be implied as incidental ones? Certainly not, unless, to say the least, they be absolutely necessary.

Can it be said after this that we are at liberty to invent terms at our pleasure, in relation to this all-important question? Are we not tied down to the terms used by the founders of the Constitution; terms too of limited, well defined and established signification? On the contrary, I see great danger in using the *general* term now introduced; it may cover the latent designs of ambition, and change the nature of the general government. It is entirely unimportant, as is before said, by what means this end is effected.

3. I come in the third place to show that the words "necessary and proper," in the Constitution, add nothing to the powers before given to the general government. They were only added (says "The Federalist") for greater caution, and are tautologous and redundant, though *harmless*. It is also

¹³Vol. 5, 293.

said in the *report* aforesaid,¹⁴ that these words *do not amount* to a grant of *new* power, but for the removal of all uncertainty the declaration was made that the means were included in the grant. I might multiply authorities on this point to infinity; but if these do not suffice, neither would one were he to arise from the dead. If this power existed in the government, before these words were used, its repetition or reduplication, in the Constitution, does not increase it. The "expression of that which before existed in the grant, has no operation." So these words "necessary and proper," have no power or other effect than if they had been annexed to and repeated in every specific grant;¹⁵ and in that case they would have been equally unnecessary and harmless. As a friend, however, to the just powers of the general government, I do not object to them, considered as merely declaratory words, and inserted for greater caution: I only deny to them an extension to which they are not entitled, and which may be fatal to the reserved rights by the States and of the people.

In my next number, Mr. Editor, I shall examine more particularly some of the principles contained in the opinion of the Supreme Court.

HAMPDEN.

(*To be concluded next year.*)

¹⁴Madison's, 75.

¹⁵"Federalist," I, 206.

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Capital, \$200,000.00

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3 % Interest Paid in
Savings Department

Balances Withdrawable on Demand

Daily and Direct Communication with over three-fourths
of the Banking Points in Virginia

